



Rangitikei District Council

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Rangitikei
UNSPOILT...

Hearing Order Paper

**Tuesday, 25 August 2015,
10.00 am**

**Council Chamber, Rangitikei District Council
46 High Street, Marton**

Website: www.rangitikei.govt.nz

Email: info@rangitikei.govt.nz

Chair

His Worship the Mayor, Andy Watson

Panel Members

Councillors Tim Harris, Nigel Belsham, Councillor Rebecca McNeil
and Councillor Ruth Rainey

Please Note: Items in this agenda may be subject to amendments or withdrawal at the meeting. It is recommended therefore that items not be reported upon until after adoption by the Council. Reporters who do not attend the meeting are requested to seek confirmation of the agenda material or proceedings of the meeting from the Chief Executive prior to any media reports being filed

Rangitikei District Council

Hearing of objection to classification of dogs as menacing

Order Paper – Tuesday 25 August 2015 – 10:00 a.m.



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At its meeting of 28 October 2010 Council resolved that ‘The quorum at any meeting of a standing committee or sub-committee of the Council (including Te Roopu Ahi Kaa, the Community Committees, the Reserve Management Committees and the Rural Water Supply Management Sub-committees) is that required for a meeting of the local authority in SO 2.4.3 and 3.4.3.’ These Standing Orders were confirmed for the 2013-16 triennium by Council on 31 October 2013.

The quorum for the meeting of this Hearing Panel is 3.

1 Council Prayer**2 Welcome and introduction from the Mayor**

(In the Chair)

3 Apologies/Leave of Absence**4 Notice of classification of dogs “Badger” and “Molly” as menacing**

This notice, issued on 13 July 2015, is attached.

5 Further information

The Chair will confirm with Ms McArthur and Mr Blythe whether there is any additional documentation to be tabled at the hearing. This may include signed witness statements for those statements included unsigned in this Order Paper.

6 Statement from Objector

The Chair will invite Ms McArthur to speak to the Panel, highlighting points in her written statement (but not reading it to the Panel).

Her written statement is attached. It has the following numbered attachments:

(The alpha-numeric references used in the statement are at the top right of each page; consecutive page numbering for the Order Paper is at the bottom centre of each page)

A 1	Reference from D H Angrove, Southern Rangitikei Veterinary Services Limited	Page 18
B 1	Reference from Betty Parker, Secretary and Life Member of the Manawatu Kennel Association	Page 19
C 1	Reference from Rosemary Weaver, a New Zealand Kennel Club championship judge	Page 20
D 1	Reference from Damian Nunns, Animal Control officer at Wellington City Council	Page 21
E 1	Reference from Kendal Beavis, Veterinary Assistant, Levin	Page 22
F 1-2	Statement from Dan Emeny (Allison McArthur’s partner)	Page 23
G 1-3	Transcript of the phone conversation between Allison McArthur and Matt Blythe, 30 July 2015	Page 25

H 1	Padlocked kennels – pool area of the property	Page28
I 1	Nailed up gate – close-up view	Page 29
J 1	Self-closing mechanism on gate – close-up view	Page 30
K 1	Padlocked kennels – close-up view	Page 31
L 1	Letter from Matt Blythe to Allison McArthur, 5 August 2015	Page 32
M 1-2	Letter from Allison McArthur to Matt Blythe, 31 July 2015	Page 33
N 1-2	Objection to classification – letter from Allison McArthur to the Rangitikei District Council, 14 July 2015	Page 35

Ms McArthur asks the Hearing Panel to uphold her objection to the classification of the two dogs as menacing.

7 Questions from the Panel to the Objector

8 Report from Council's Senior Animal Control officer

The Chair will invite Mr Blythe to speak to the Panel, highlighting points in his written report (but not reading it to the Panel).

The report is attached. It contains eight appendices, as follows¹

(a) Regarding the incident on 11 July 2015

Appendix 1	Witness statement – Russell Nelson	Page 45
Appendix 2	Witness statement – Lesley Butler*	Page 47
Appendix 3	Witness statement – Lou Fairest-Harper (1 st part)*	Page 50

(b) Regarding the incident on 18 March 2015

Appendix 4	Witness statement – Vicki Rine*	Page 55
Appendix 5	Witness statement – Matt Roberts	Page 59
Appendix 3	Witness statement – Lou Fairest-Harper (2 nd part)*	Page 52

(c) Other

Appendix 6	Dog Control and Owner Responsibility Policy	Pages 62
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¹ Those witnesses who have indicated they intend to be present at the hearing, to speak with the Panel if required, are asterisked.

Appendix 7	Letter from Matt Blythe to Allison McArthur, 5 August 2015: <i>this is also included as attachment L in the Objector's statement.</i>	Page 84
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Mr Blythe recommends that the Hearing Panel uphold the classification of both dogs as menacing.

9 Further questions from the Panel to the Objector, to the Council's Senior Animal Control Officer and/or to the Council's Witnesses

The Panel may seek views from the Objector, the Senior Animal Control Officer or the Witnesses on any written statement provided or oral statement made at the hearing, but these parties are not permitted to cross-examine each other.

10 Deliberation by the Hearing Panel

The Panel may wish to deliberate in private.

Under section 33B(2) of the Dog Control Act 1996 the Panel may resolve to *either* uphold *or* rescind the classification, but must note its reasons for its decision, and these must be conveyed to the owner of the dogs. Alternatively, the Panel may, for any reason, resolve to adjourn the meeting until a specified date and time or to a date to be subsequently determined with the Members of the Panel, the Objector and the Council's Chief Executive.

11 Meeting closed

Attachment 1



13 July 2015

Alison McArthur
131 Tutaenui Road
Marton 4710

Dear Alison,

**Notice of Classification of Dog as a Menacing Dog
Section 33C, Dog Control Act 1996**

Dog: Badger, a red male Border Terrier dog, aged 6.06yrs.

Dog: Molly, a red female Border Terrier dog, aged 3.09yrs.

This is to notify you that your dog(s) has been classified as a menacing dog under [Section 33A](#) of the Dog Control Act 1996.

A summary of the effect of the classification and details of your right to object are attached.

Yours sincerely

Lou Fairest
Animal Control Officer

Effect of Classification as Menacing Dog

Section 33E and 36A, Dog Control Act 1996

The owner of a dog that has been classified as menacing-

- (a) Must not allow the dog to be at large or in any public place or in any private way, except when completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction

If you fail to comply with the requirement in paragraph (a) above, you will commit an offence and be liable on summary conviction to a fine not exceeding \$3,000.

If you fail to comply with this requirement, a dog control officer or dog ranger may seize and remove the dog and retain custody of the dog until the Rangitikei District Council has reasonable grounds to believe that you have demonstrated a willingness to comply.

Requirement to microchip dog

Under section 36A of the Dog Control Act 1996, you are required within 2 months from 1 July 2006 to have the dog implanted with a functioning microchip transponder of the prescribed type and inserted in the prescribed location. The prescribed type and location will be set out in regulations made under the Dog Control Act prior 1 July 2006.

You will also be required to either:

- (a) make the dog available in accordance with the reasonable instructions of the Rangitikei District Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
- (b) provide to the Rangitikei District Council a certificate issued by a registered veterinary surgeon certifying –
 - (i) that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location; or
 - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be implanted with a such a microchip.

If a certificate is issued under paragraph (b), you must provide to the Rangitikei District Council, within 1 month after the date specified in the certificate, a further certificate under paragraph (b).

If you fail to comply with this requirement, you will be liable on summary conviction to a fine not exceeding \$3,000 or an infringement fine of \$300.

Right of Objection to Classification

Section 33D, Dog Control Act 1996

You may –

Within 14 days of receiving this notice of classification, object in writing to the Rangitikei District Council regarding the classification.

You have the right to be heard in support of your objection.

The Rangitikei District Council, in considering your objection, may uphold or rescind the classification. In making its determination, the Council is required under section 33B of the Dog Control Act 1996 to have regard to –

- (a) the evidence which formed the basis for the classification; and
- (b) the matters relied on in support of the objection; and
- (c) any other relevant matters.

The Rangitikei District Council must, as soon as practical, give you written notice of-

- (a) its determination of the objection; and
- (b) the reasons for its determination.

Full details of the effect of the classification of a dog as menacing are provided in the Dog Control Act 1996.

Attachment 2

INTRODUCTION

1. My name is Allison McArthur. I live in Marton and work as Practice Manager for Cooper Rapley Lawyers in Palmerston North and Feilding. My partner Dan and I have lived in Marton for 8 years after moving from Pukerua Bay in Wellington. Dan is an electrician with Alf Downes & Son.
2. I have owned dogs all my life and have held a number of positions within dog breed and obedience clubs. I was an Obedience Instructor for Wellington Canine Obedience Club for a number of years. I am a founding member of the New Zealand Rhodesian Ridgeback Assn and have held the position of Secretary/Treasurer for 10 years. I have also been heavily involved in the Rehoming and Rescue of Rhodesian Ridgebacks in need in New Zealand and have successfully rehomed a number of dogs. I have been a member of the New Zealand Kennel Club since 1990 and have been a Registered Breeder with them since 2012. I was a member of Canine Friends and when I moved to Marton I was made the Area Co-ordinator. In this role I was required to meet new dogs coming into the organization and was responsible for completing temperament tests before they were allowed to enter the scheme. As a member of Canine Friends I used to visit Edale Rest Home in Marton every Friday afternoon with one of my Ridgebacks, until the dog passed away two years ago.
3. I believe that I am the epitome of a responsible dog owner as my record and my qualifications show.

MY DOGS AND THEIR BREEDING

4. I currently have 3 Rhodesian Ridgebacks and 2 Border Terriers. I have another elderly Rhodesian Ridgeback living with me at present as her owner is unwell and is unable to care for her. I have owned Ridgebacks for nearly 25 years and the Border Terriers for 6 years. I am unable to have children so my dogs are my "furkids". My hobby is dog sports, competing in Obedience, Agility, Lure Coursing and Conformation shows over the years. I currently show all my dogs and they have all won numerous awards in the breed show ring.
5. Molly and Badger are my two Border Terriers. They are the dogs that Mr Blythe has classified as menacing. Border Terriers are bred to hunt. The breed was developed on the borders of Scotland and England and were bred to run with hunting Hounds. They are earth dogs so will go to ground after rats and vermin. They are a versatile breed and make wonderful family pets as well as tireless working dogs. The breed standard for a Border Terrier states "it must be able to run with a horse all day", so they are quick and enjoy running.
6. We have stock on our property and have run flocks of sheep for neighbouring farmers in the past and all of my dogs have been exposed to those stock. The border terriers in particular (Badger in fact) has been used to move the sheep and cattle around my property with no issues.
7. Badger came to us from well-known Border Terrier breeders, Pat and Dave Herd in Wanganui. He was my first border terrier and a dog that I had waited for many years. He is an obedient, fun loving dog who enjoys a good walk but most of all he enjoys pats.

He loves swimming but isn't very good at it and is always with you if an adventure is looking promising. Badger has sired two litters to date and we were planning on breeding from him again in the future.

8. Molly came to us from Amber Riley of Mossrose Kennels in Hawkes Bay. Molly is a happy, kind honest bitch who enjoys her cuddles. She is loved by many and has a fan club within the show world because of her sweet nature. She has had an exceptional career in the show ring – achieving the top Border Terrier bitch in the country for the last two years and was one point off Border Terrier of the Year in both 2013 and 2014. Molly is the result of Amber Riley's 20 year breeding programme of Border Terriers and her results in the show ring are proof of that. Molly is so important to our breeding programme that we have recently imported a top UK Border Terrier Stud dog to be Molly's first sire.
9. Both Badger and Molly have also competed in Lure Coursing. This is a new dog sport, where the dogs compete against each other to run down a "hare" (plastic bag) that is attached to a lure machine set up in a paddock. Both Molly and Badger have proven their capability in this area and can certainly keep up with, and in sight of, a coursing ridgeback.
10. My dogs have never been in trouble with Animal Control, neither here in the Rangitikei nor in Porirua. Badger has been living here for six years and Molly for four years and this is the first time they have managed to get out of the secured area on our property. I have held Good Owner Status in both Porirua and Rangitikei for all the years I have owned dogs. I am a responsible dog owner and my record proves this.
11. I attach references from my Vet, Dave Angove of Southern Rangitikei Veterinary Services ("A"), Betty Parker, Secretary of Manawatu Kennel Assn and International Qualified Dog Judge ("B"), Rosemary and Bob Weaver, a NZKC Judge and Marton residents ("C"), Damian Nunns, Team Leader at Animal Control, Lower Hutt ("D"), and Kendall Beavis, a Veterinary Nurse and friend ("E"). These people all know my dogs, their breeding, their breed type and all were extremely happy and willing to give references as to the character of the dogs and myself. I also attach statement from my partner Dan Emeny, who was in charge of the dogs when the incident occurred ("F").
12. I simply do not believe that Molly and Badger are deserving of their menacing classification simply as a result of one incident of stock chasing. I believe this because of their character and temperament, and their exceptional training.
13. I note here that Mr Blythe himself has told me that he does not think that my dogs are a threat to anyone (see transcript of telephone conversation attached at "G", page 3). I find that difficult to reconcile with his correspondence and his decision to classify them as menacing.

THE EVENTS LEADING TO THE CLASSIFICATION

14. The day Molly and Badger were picked up they were at home with my partner Dan as I was in Auckland competing at a Dog Show. Dan rang me to say that the dogs had broken the gate and had got out. Dan sought assistance from Bob and Rosemary

Weaver to help him find them and after an hour of searching Dan had rung Animal Control to report them missing. He told me that an hour after he had reported them missing, Animal Control had rung to say that they had them and that they had been worrying sheep and were being impounded for the weekend and we could pick them up on Monday morning. Dan explained to me that the dogs had been in the pool area of my property which is a securely fenced off area where they are often kept (see an indication of this area attached at "H"). They had somehow forced their way through the bottom of the pedestrian gate, and in doing so they had managed to break the latch.

15. I think that this is a relevant point because this is not just some case where an uncaring or negligent owner has let their dogs run riot. Molly and Badger were actually locked up, but they broke a gate on our property to escape. It was a one off incident that I have remedied. It will not happen again. Mr Blythe himself has agreed with me that it will not happen again. Once again I find that difficult to reconcile with his menacing classification.
16. I would like to further add here that as a dog owner in a rural area, I am very aware that stock worrying is serious and something that must be prevented because I am aware of the consequences, particularly as an owner of stock myself. At the same time, I think it must be pointed out that neither of the dogs are accused of attacking animals or humans which is unquestionably worse offending than stock worrying. Mr Blythe himself has told me that my dogs are not a threat to anyone. Once again, difficult to reconcile with the menacing classification.

STEPS I HAVE TAKEN TO PREVENT RECURRENCE OF THE STOCK CHASING

17. I have taken extraordinary steps to ensure that there is no recurrence of the stock worrying in attempts to appease the Council and ensure the safety of my dogs. The following is a list of preventative measures we have in place:
 - 17.1 The gate that the dogs escaped from has now been nailed closed so it is no longer able to be forced open nor is it able to be used as a pedestrian gate (see photo attached at "I"). This step was a no-brainer.
 - 17.2 Mr Blythe was concerned about the risk of further escape when he told me that "anyone would be able to leave a gate open" – so in response to that concern we have also installed a self-closing mechanism on the main pedestrian gate so that there is no chance that the gate can be left open (see photo attached at "J")
 - 17.3 We have also since installed a "kiddy" gate in the hallway of our house so that the dogs don't have access to the front or back doors when they are inside.
 - 17.4 While we already always have our dogs in padlocked kennels when we are not home, since the incident we have moved our Border Terrier kennels inside the secure pool area so that there are now two levels of security. These kennels are, of course, padlocked when we are not home (see photos attached at "K" and "H" above)
 - 17.5 We have voluntarily had Badger de-sexed (refer to letter attached at "A"). This was what Mr Blythe told me to do in exchange for leniency for Molly (refer to transcript attached at "G", page 1), which never eventuated. Mr Blythe told me on the

telephone that his main concern was that I would put Badger over Molly and pass on the 'stock chasing' trait. Aside from the fact that his understanding of dog genetics is clearly lacking and that I intend to mate other dogs with Molly, I had Badger desexed anyway simply to appease the Council.

- 17.6 Finally, we have reluctantly separated Molly and Badger. We have re-homed Badger into Marton town to live with my mum who has recently moved to Marton. It should be noted that my mum is also an experienced dog owner and has recently received her good owner status. We feel this should put to bed any doubt that Molly and Badger will somehow conspire with each other to escape and go on a stock worrying spree. This rehoming will further reduce any temptation. Again, it is not ideal to split them up nor is it necessary, and I add personally it is very difficult for me to do this, but it is just another thing that we can do to satisfy Council's concerns.
18. I honestly do not know what other steps I can possibly take to satisfy the Council that there will be no recurrence of stock worrying. I think that the steps I have taken and the risk of it happening again must be relevant, because what is the point of the classification if they pose no risk?
19. If the Council was in any doubts as to how much it means to me to protect Molly from being desexed and to protect my good name from the taint of a menacing classification, then I believe the fact that I was willing to voluntarily desex Badger and re-home him just to appease an ignorant dog control officer shows just how much it does mean to me.

CONSEQUENCES OF MENACING CLASSIFICATION

20. If the menacing classification for Molly and Badger is upheld it will have a huge impact on me, my reputation and my future breeding programme.
21. **Desexing Molly** – Molly is currently the top Border Terrier bitch in New Zealand, and if she is desexed this will impact on the breed as a whole within New Zealand, not to mention my own breeding programme. Neither dog will be able to be shown in a Breed Show if they are desexed because that would be against the rules of the New Zealand Kennel Club. Bizarrely, Mr Blythe told me in one telephone conversation that I was wrong about that and that I should just show Badger with prosthetic testicles. I don't know how Mr Blythe thinks he is more qualified than me on the Rules of the New Zealand Kennel Club, but that would simply be cheating and illegal in the eyes of the NZKC (see confirmation of this in Betty Parker's letter attached at "B"). As mentioned Badger has already been desexed, so he is effectively retired from competition now, which is one implication of this process that is irreversible no matter what the decision.
22. **Muzzling** – Neither Badger nor Molly are aggressive to people or animals. There is no risk of them biting anyone so having them muzzled when off the property will not achieve anything. Remember that these dogs escaped a locked gate. If they were to get amongst stock again – which is extremely unlikely – they are not going to come and ask for me to put their muzzles on before they go. Although the law has changed so that menacing dogs can have their muzzles removed for dog shows, they would simply not be allowed to be shown as they would not conform with the temperament tests required for breed showing.

23. **Reputation** – My reputation as a breeder will be tarnished. As a NZKC registered breeder and NZ Ridgeback Association Recognised Breeder, I am required to comply with both Club's Code of Ethics that I am a signatory to. To have dogs that have been classified as "Menacing" is in breach of both of those Clubs' Code of Ethics.
24. **Loss of Good Owner Status.** Since Molly and Badger have been given the menacing classification my good owner status has been cancelled. This is financially enormous with the registration fees tripling for each of my dogs.
25. **Financial Implications** – The financial implications of having these dogs desexed is immeasurable. Border Terrier puppies of Molly and Badger's calibre are sold for upwards of \$1500 each. They will have on average six in a litter. Molly is a four year old bitch whose breeding potential is 3 litters. So I can calculate the likely financial cost of her desexing at $3 \times 6 \times 1500 = \$27,000$. This is not taking into account the enormous expense that has been incurred bringing in the UK Stud Dog as Molly's first sire. Badger, as I have already mentioned has sired two litters of six and was booked in for stud duties with another two bitches. Being a male, his breeding potential was unlimited. That has now gone, again regardless of the decision.

PROTECTING COUNCIL

26. Mr Blythe has told me that while he agrees the dogs are not a threat, and that I am a good owner, he wants to uphold the menacing classification to:

"protect the Council's interests because if by some chance they do [escape], then sure as god made green apples someone is going to say 'well those dogs have done this before and the Council knew about it'" (see transcript attached at "G", page 3).
27. I do not think that is of itself an appropriate reason to uphold the classification. I think that the decision should be guided by the relevant facts, the nature and character of the dogs, and the risk of any recurrence, and not some misguided idea of 'protecting the Council' from criticism for some future unlikely event.
28. To put it bluntly, I do not want these two dogs classified as menacing simply to cover the Council's butts. They are not the dogs that should be made examples of when they are not aggressive or menacing. They simply escaped from the property and were doing what most dogs would do. We have taken many steps to ensure they do not leave our property unattended as has been the case for the last eight years whilst living in Marton and for 40+ years when living in Porirua.
28. I now fear for the safety of my dogs whilst we are not home. This entire experience has been very distressing and upsetting. Mr Blythe's attempt to bully me into withdrawing my objection by putting "conditions" on the menacing classification has made me more determined to protect my dogs and my reputation. I now travel all my dogs with me to dog shows so that there cannot be any chance of anything happening to them when I am away.
29. I have had two telephone conversations with Mr Blythe now. I found the first to be quite distressing and intimidating given the bizarre things that he was saying to me, for example concerning the use of prosthetic testicles in competitions and calling into question my Ridgebacks! As I was so upset after the first conversation, in my second call with him I took a precaution of recording the conversation. I was actually reasonably satisfied with how the

second call went because Mr Blythe was pleasant to me and there seemed to be a way through the mess.

30. That evening, I thought about what Mr Blythe told me in the call and ultimately decided that it would be a mistake to withdraw my objection on the basis of his promise (I sent a letter to the Council to that effect, attached at "M"), and I must say I am now very pleased indeed that I recorded the conversation because it seems to me that Mr Blythe was only being polite to induce me to withdraw my objection.
31. In my opinion what Mr Blythe told me during that call is important information. I have a complete recording of the conversation if you wish to hear it, so as to verify the accuracy of my recollection, and I have also taken the time to transcribe the conversation into writing (attached at "G" above). Of particular importance to this decision is the following exchange (I have underlined key bits):

Miss McArthur: These dogs are not aggressive, there is no way they are going to bite anybody.

Mr Blythe: No and I totally accept what your saying and it is not uncommon that you get lovely dogs chasing sheep because in the dogs eyes it is a game, you know get a reward and they loving chasing things, I'm picking they are the sort of dogs if you chuck a stick they will run all day for a stick or a ball?

Miss McArthur: Absolutely

Mr Blythe: Yes so if they have got a big fluffy stick running away from them to them its fantastic

Miss McArthur: Yes – well that's it unfortunately this has been a situation where they have been in a contained area, they have broke part of the gate and got out, that has all now been secured again because they have never got out of there before

Mr Blythe: Yes

Miss McArthur: And they obviously went into the paddock and saw sheep running

Mr Blythe: Yes exactly and the only reason, I mean they are not a threat to anyone, they are not a risk to anyone, they may one day attack sheep if you let it to continue but your not going to

Miss McArthur: That is not going to happen

Mr Blythe: No its not going to happen, but I've got to protect the Council's interests because if by some chance they do, then sure as god made green apples someone is going to say well those dogs have done this before and the Council knew about it

32. I am writing this evidence without the benefit of seeing what Mr Blythe is going to say in his, but I will be very distressed to say the least if Mr Blythe gives a different view of things than what he told me on the phone. Unfortunately, I suspect that he will tell a different story because I have already received a letter from him that accused me of "misunderstanding several aspects of our conversation". Fortunately I can prove that I have not.

SUMMARY

33. For all of the reasons that I have identified in this evidence, I respectfully ask this hearing panel to uphold my objection (see original letter attached at "N") to the classification of Molly and Badger as menacing dogs.

A handwritten signature in black ink, appearing to read "Allison McArthur". The signature is fluid and cursive, with a large initial "A" and "M".

Allison McArthur

18 August 2015



SOUTHERN RANGITIKEI VETERINARY SERVICES LIMITED

5 August 2015

To Whom It May Concern

RE: ALISON McARTHUR – 131 TUTAENUI ROAD, MARTON

I have been treating and dealing with Alison McArthur's animals for a number of years.

In that time I have found her to be a conscientious owner who seeks Veterinary attention when needed for all of her animals.

The animals have always been well cared for and going over her many animals records, over the years, I have not seen any that have been aggressive at any point. Animals often do get fractious when at a Veterinary Clinic but we have no noted problems in the past. In our more recent dealings with both Badger (microchip: 982 009 106 005 5650) and Molly (microchip: 982 000 190 219 777), both Border Terriers, there has been no aggression problems.

I castrated Badger the 6 year old male Border Terrier on the 3rd August 2015. At the time of surgery I was unaware of the problems with dog control and the description of the menacing classification. Badger was a pleasure to deal with at the Clinic and he showed absolutely no aggression. In fact I feel he could not have been friendlier and better behaved.

I feel Alison McArthur is a very good owner and her animals are well behaved.

I cannot comment on the sheep chasing incident, but would like to state that while this is far from acceptable, sometimes dogs are not necessarily in attack mode and more of the inquisitive nature, particularly if this was a completely new experience.

In summary I would be surprised that these two dogs deserve a Menacing Classification and I know Alison takes her pet ownership duties very seriously.

Kind Regards

D H Angove



12 August 2015

TO WHOM IT MAY CONCERN

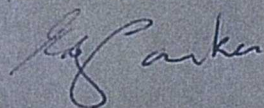
I am Secretary and Life Member of the Manawatu Kennel Association and have known Alli McArthur for many years.

She is a valued member of the Manawatu Kennel Assn, a responsible dog owner and cares deeply about her dogs.

I am an International All Breeds Dog Judge. It is vital that I can assess the temperament of dogs exhibited under me both prior to and during examination. This is both for my personal safety and, also the breed standard requirement for a sound temperament.

The two dogs concerned, Molly and Badger, are not aggressive in my opinion. I have seen and watched Alli's dogs growing up and have never seen anything remotely 'menacing'. They have been exhibited at all breed dog shows and have never had a disciplinary incident nor been put on watch for any temperament issues. In fact, Molly is a top winning dog having won many Group and In Show awards.

Badger has now been de-sexed, but to have Molly de-sexed and classified as 'menacing' would exclude her from exhibition at dog shows and have a detrimental effect on the enjoyment Alli has in the sport of showing her dogs.



Betty Parker

All Breeds Judge
Secretary and Life Member Manawatu Kennel Assn
Secretary of the NZ Council of Docked Breeds
Show Secretary of the NZ Kennel Club National Dog Show
President of the Manawatu Show Dogs Judges Assn.

9 Armagh Terrace
Marton

15 July 2015

To whom it may concern

Molly and Badger

As a NZKC championship judge, a member of two NZKC committees and someone with over fifty years experience of dogs I would like to speak as to my knowledge and the temperament of the above two dogs. I have known both these dogs for a number of years and in fact we took Molly with us to the South Island last year, during this time I have never known either dog to be aggressive in any way. Both dogs have, over the years, been shown at numerous dog shows and have never to my knowledge exhibited any aggression towards either people or other dogs. The events of the weekend are totally out of character for both of them and I feel that to call them "menacing dogs" is not the true nature of either of them. These are family dogs who do not normally stray off the property and what happened at the weekend was a one off occurrence. For them to be desexed would, in my opinion, serve no useful purpose. I would ask that you reconsider your decision on this matter.

Rosemary Weaver

Bob & Rosemary Weaver
SHOW WEAR
Thaxmead Clumber Spaniels & Border Terriers

To Whom it May Concern.

My name is Damian Nunns. I have been Animal Control Officer for 17 years for Wellington City Council, and the Team Leader for the last 12 years. I have known Allison McArthur for the last 20 years. We are good friends and have shared the same passion in dog showing and particularly the Rhodesian Ridgeback breed over this time. I am writing this as a testament to her character and integrity.

Allison has always had dogs and I have found her to be extremely responsible in her care and consideration for others, both while attending dog shows with many other people and dogs around, and in her home environment.

Allison has always been trusted to look after my own dog whenever I required her help, such as when I have gone away overseas. I have always regarded Allison as a very responsible, trustworthy, honest and consciences person so much so that I asked her to be a trustee in the trust I set up in 2008 to manage my personal affairs.

I have had a lot to do with Allison's Border Terriers Badger and Molly both at her house and at dog shows and have always found the dogs to have a great loving and respectful temperament with people and very sociable with other animals. I have never seen these dogs behaving in an aggressive manner.

I am aware of the incident reported to council that these two dogs have been found running amongst stock, I find it difficult to see how their temperament and nature would have threatened the stock. They are usually very well supervised and secured even on their own property and I would believe this to be an unusual, and rare occurrence for them to be off the property.

I would be happy to answer any further questions if required.

Kind Regards
Damian Nunns

A handwritten signature in black ink, appearing to be 'Damian Nunns', with a long horizontal flourish extending to the right.

17.8.2015

Kendal Beavis
178 Potts Road
RD 1
Levin
Phone 06 3685191 Wk
06 3682199 Hm
027 2229722 Mobile
Kendal@topglass.co.nz

To Whom It May Concern,

Re – Ms Allison McArthur
131 Tutanui Road
Marton

I have been a dog owner for over 45 years, predominantly of hounds, showing, breeding and participating in Obedience.

I am a qualified Veterinary Assistant and enjoy Preferential Owner Status with the Horowhenua District Council.

Alli is highly respected by her fellow NZ Kennel Club members for her diligence and ability with her dogs. Allis' dogs are always superbly cared for and well contained.

An owner with the incredibly high standards Alli imposes upon herself should not be severely punished for one uncharacteristic, isolated incident which Alli herself had no part in.

It is with dismay that owners such as Alli and myself watch bureaucracy punish responsible owners for one minor misdemeanour to satisfy those responsible for dealing with "irresponsible owners" in charge of "dangerous dogs".

Allis' dogs are not a risk to livestock or humans. Alli is devastated by this event and will ensure circumstances will never again arise to allow any future problems.

I welcome any contact to the addresses above.

Many thanks

Yours truly

A handwritten signature in black ink that reads "K Beavis". The signature is fluid and cursive, with the first letter 'K' being large and prominent.

Kendal Beavis

Introduction

I have lived with Alli McArthur in Marton for 8 years. I am an electrician with Alf Downes & Son. Alli has owned dogs ever since I have known her, and they have always been a huge part of our life together.

I have prepared this statement which recollects two incidents involving our two Border Terriers, Badger and Molly, to assist in the hearing of Alli's objection to the menacing dogs classification.

The first instance of Molly and Badger leaving the property referred to by Matt Blythe

Around the end of March (can't remember the exact date), I was working in the garage and all the dogs were outside with me. Alli arrived home from visiting her mother in Paraparaumu and asked where the Border Terriers were. I replied that they were just here a minute ago and we started calling them. It is unusual for them to disappear.

When they didn't come immediately, we started looking for them on the property. When we couldn't see them, I got in my vehicle and drove down the driveway and turned left onto Tutaenui Road heading north. When I got to Bryce's Line I turned around and headed back towards home and saw three people standing on the footpath approximately 400m past our gate. They were holding Molly and Badger.

I stopped the vehicle and said that they were my Border Terriers and I had been looking for them. They said the dogs had been in the paddock with their sheep but had not hurt or attacked any and that they had called Animal Control and were waiting for them to come because they didn't know whose dogs they were.

They were quite happy to give me the dogs because they said they knew they weren't attacking the sheep as she had had dogs attack her sheep before and these dogs were not doing that. I told them where I lived and took the dogs home.

About half an hour later, the Animal Control Officer arrived at my property and told me that the only reason she knew where the dogs lived was because the people had made her promise not to take them because they weren't hurting anything. She said she had promised she wouldn't take them so they had told her our address. The Animal Control Officer then asked if the dogs were registered, which I replied they were and she said "don't let it happen again" and left.

The incident that led to this hearing

Alli was away at a dog show. All the dogs were in the house. I went to feed them and saw that their food was still frozen so I put all the dogs out onto the deck – which is a secured area – whilst I went in and defrosted their food. When I came back out onto the deck the two border terriers were gone. I checked the gates and saw that they had broken the latch on one of the pedestrian gates which had given them enough room to squeeze through. I looked all around the property. I got in my car and was driving down the driveway when I met Rosemary Weaver who was here to feed her pony. I told her that Molly and Badger had gone so she rang Bob Weaver and the three of us went in different directions to find them. I went to where they were last time and they weren't there. We looked for approximately an hour before I rang Animal Control to report them missing. We continued to keep looking when after an hour I got a call from Animal Control to say that they had picked them up and they were going to keep them for the weekend and we could pick them up on

Monday from the Pound in Wanganui. I informed the Animal Control officer that Badger had an injury and was on medication so I met her down in town to give her the medication and she informed me then that they had been chasing sheep but did not tell me whereabouts. I came home.

On Monday morning when I went to collect them from the Wanganui Pound, I was given a letter and informed that the dogs had been classed as menacing and that they had to be desexed and muzzled within 30 days of the notification, but that we had a right to object.

Dan Emeny

17 August 2015

Phone Conversation between Miss Allison McArthur and Mr Matthew Blythe on 30 July 2015

Miss McArthur: Hello Matt, its Allison McArthur here.

Mr Matt Blythe: Oh I can hear you now, sorry I must have been in a bad area - how are you?

Miss McArthur: Oh I've been better obviously. Listen Matt, I spoke to Dan last night ...

Call dropped off. Redialled.

Miss McArthur: Matt its Allison McArthur here

Mr Blythe: Yeah hi – everytime I answer I lose service

Miss McArthur: Ok

Mr Blythe: I've left a message on your cellphone too sorry

Miss McArthur: oh that's ok

Mr Blythe: How we going with those dogs?

Miss McArthur: Well to be honest, as you can imagine I'm still really struggling with this Matt. Now, I have decided and I have already booked Badger into be desexed.

Mr Blythe: That's the male, the dog?

Miss McArthur: Yes that's the male. That's the dog. Now you said to me yesterday that if I was prepared to do that you would give me some leeway with the bitch?

Mr Blythe: Yeah absolutely no worries.

Miss McArthur: Would you put that in writing?

Mr Blythe: Yes of course I will. I mean the process we have to follow, you've objected so we have to have a hearing, unless we decide not to, which we would never do because we always take these things seriously. If you then write us a letter saying your withdrawing your objection and then I will write you a letter to say that I will accept your withdrawal with these following conditions, and those conditions will be we will give you leeway for the bitch and I totally understand what your doing with her, our biggest concern is those traits, that if you put your dog over your bitch there is guarantee that we will get those traits with any dogs that come out of it, and that's potentially dozens of problems for us throughout the district. Are you still there?

Miss McArthur: Yes I'm still here.

Mr Blythe: So the fact that you are putting a completely different dog over her and I accept its income for you, and your hobby and whatever and your interests, we are not that hard about things, so yes I will put it in writing for you.

Miss McArthur: OK

Mr Blythe: Absolutely

Miss McArthur: Alright. OK, well I put together a letter

Mr Blythe: I get hit by a bus tomorrow and a new boss comes in he'll have some verification of what you tell him.

Miss McArthur: Ok so I need to respond to you then and I will do that tomorrow.

Mr Blythe: All I need from you is that you put in an objection on I'm not in my office so I don't have the date, you put an objection in on whatever date it was, you've probably still got a record of it

Miss McArthur: Yes the 14th

Mr Blythe: and as a result of talking to me your withdrawing that objection and then I'll write back to you with what we have discussed, and just outline what we have discussed and if your not happy with what I write to you, like if I'm telling lies now and I write something totally different you have got the right to resume your objection.

Miss McArthur: Ok cool. Alright. Now just so I understand that, what we discussed yesterday about being able to not have her speyed, that, the menacing is still upheld then is it?

Mr Blythe: Yes she will still be classified as menacing, the Council have the right to, when I say the right, we are allowed to decide whether we enforce a menacing classification so a good example is pit bulls for example are automatically menacing regardless of their behaviour, and some councils enforce desexing and some don't so we don't have to enforce that. The same with the muzzling, by the letter of the law both the dogs have to be muzzled if they are ever out of their section but we, unless there is an issue we don't go round checking dogs for muzzles and that sort of stuff, if they turn around and bite someone and she hasn't got a muzzle on then you are for the high jump

Miss McArthur: Yes

Mr Blythe: but that's on your shoulders not ours, we put that back on responsible people like yourself

Miss McArthur: These dogs are not aggressive, there is no way they are going to bite anybody.

Mr Blythe: No and I totally accept what your saying and it is not uncommon that you get lovely dogs chasing sheep because in the dogs eyes it is a game, you know get a reward and they loving chasing things, I'm picking they are the sort of dogs if you chuck a stick they will run all day for a stick or a ball?

Miss McArthur: Absolutely

Mr Blythe: Yes so if they have got a big fluffy stick running away from them to them its fantastic

Miss McArthur: Yes – well that's it unfortunately this has been a situation where they have been in a contained area, they have broke part of the gate and got out, that has all now been secured again because they have never got out of there before

Mr Blythe: Yes

Miss McArthur: And they obviously went into the paddock and saw sheep running

Mr Blythe: Yes exactly and the only reason, I mean they are not a threat to anyone, they are not a risk to anyone, they may one day attack sheep if you let it to continue but your not going to

Miss McArthur: That is not going to happen

Mr Blythe: No its not going to happen, but I've got to protect the Council's interests because if by some chance they do, then sure as god made green apples someone is going to say well those dogs have done this before and the Council knew about it

Miss McArthur: Yes I understand

Mr Blythe: And then next thing we are in the front page of the newspaper and blah blah blah

Miss McArthur: Yes I understand

Mr Blythe: Ok

Miss McArthur: Ok – thanks Matt

Mr Blythe: No worries, flick me that letter, and if you have any issues, I'm sure you know as you sound like a responsible person, I'm sure if you've got issues you will call us

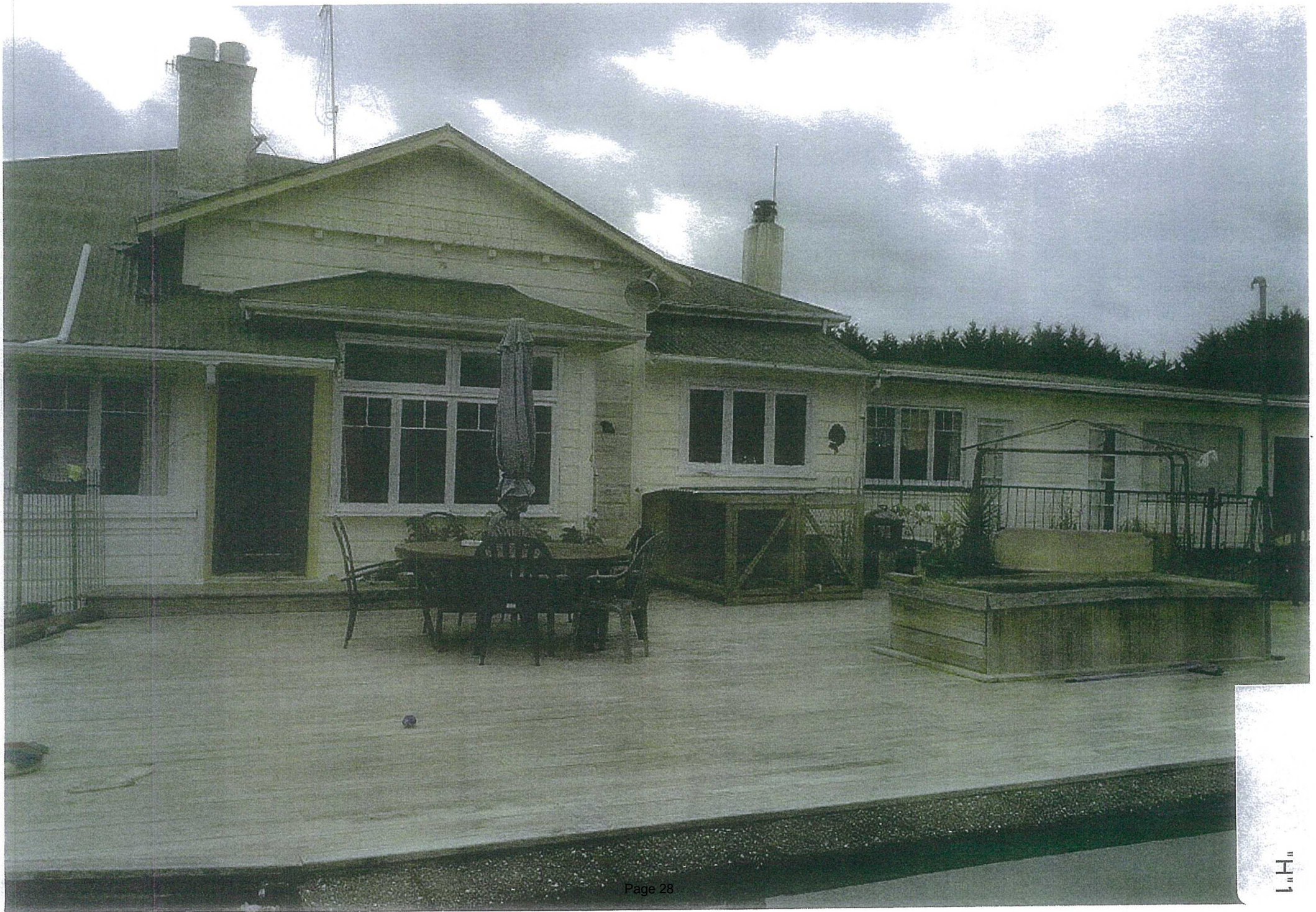
Miss McArthur: Yes absolutely

Mr Blythe: I doubt that you have

Miss McArthur: Ok thank you

Mr Blythe: Bye

Miss McArthur: Bye











5 August 2015

Allison McArthur
131 Tutaenui Road
RD2
Marton

Dear Allison,

Thank-you for your letter dated 31 July 2015.

It is obvious from your letter that you have misunderstood several aspects of our conversation.

I refer to your letter;

- (a) I accept that you have told me that the gate has been fixed, this however in no way satisfies any concerns that your dogs may escape, I expressly stated in our conversation that there was always a possibility that this behavior could re-occur in the future as a result of your dogs escaping by any means which could be as a result of actions of another out of your control.
- (b) Your dogs are a threat to animals, in particular sheep. The menacing classification relates to their actions on two previous occasions.
- (c) Responsibility of an owner does not negate the actions of your dogs on two previous occasions, and the likelihood of these actions re-occurring.

As stated in our conversation, should there be an incident involving your dogs and it is found that they were not muzzled, you would be solely responsible for those actions as the owner, and accordingly, liable.

In summary, it is not acceptable to this Council that in 'your opinion' your dogs are not a threat to any person or animal.

I do not accept your offer, and accordingly, this matter will now proceed to a hearing.

You will be notified in due course of the time, date and place of the hearing.

A handwritten signature in blue ink, appearing to read 'MBlythe'.

Matt Blythe
Senior Animal Control Officer
Rangitikei District Council

131 Tutaenui Road
RD2
Marton

31 July 2015

Matt
Dog Control Officer
Rangitikei District Council
Private Bag 1102
MARTON

Dear Matt

BADGER & MOLLY - MENACING DOG CLASSIFICATION

Thank you for speaking to me yesterday concerning the menacing dog classifications for my border terriers Molly and Badger. As I have said to you I am finding this very distressing and having given it more thought last night, I remain concerned about a number of things. I lodged my objection by email with the Council on 16 July 2015 along with a hand delivered copy on 24 July 2015.

We spoke yesterday and you advised me to withdraw my objection to your classifications in exchange for your assurances that you would not require Molly to be desexed and that you would not enforce the off site muzzling requirements on either dog. I appreciate your willingness to discuss this with me and your offer.

However, I still have concerns regarding the classification of Molly as a menacing dog, notwithstanding your assurances.

Firstly, you said to me that your main concern was me breeding Badger to Molly, and the offspring then supposedly carrying the traits of chasing stock and you were worried that you would then have "dozens of incidents in the district". I appreciate these concerns and understand your responsibility to the district and its safety however, I have agreed to desex Badger and would then question does that in fact not address the risk you have identified? I don't understand then if the risk is avoided, why is it then necessary that Molly continue to be classified as menacing?

Secondly, you have accepted in our conversation that:

- (a) the problem that led to Badger and Molly's escape has been addressed – the broken gate has been fixed and additional measures have been put in place to ensure this doesn't recur;
- (b) that Molly and Badger are "not really a threat to anyone" and that they were simply chasing sheep "for the reward";
- (c) that I am a responsible dog owner and there will be no repeat episodes.

Page 2

On that basis, I struggle to see why you would still insist that Molly or Badger be classified as menacing.

Thirdly, although you say that you will not enforce the muzzling of Badger and Molly off-site, that does not detract from the fact that if I do take either of them off the property, I will in fact, be breaching the requirements of the menacing classifications and this then makes me a criminal as I am technically breaking the law? I am seriously troubled by this. If you were to leave the employment of the Council, or if anybody else who has knowledge of their classification saw me walking the dogs down the street, this could become a real problem for me, particularly as most weekends my dogs are off site at dogs shows as I have mentioned to you before.

Finally, I am concerned at putting into writing a letter that withdraws my objection in the absence of any written assurance from you that you will amend the current menacing classification for Molly, or any assurance that you will not enforce the muzzling requirement for menacing dogs. What happens if you change your mind or do not agree and I have then no right to re-object considering the time period to lodge an objection has now run out?

Accordingly, for those reasons I am not comfortable withdrawing my objection at this stage because I do not consider that my dogs are in fact menacing and I do not consider there is any threat to the safety of any person or animal and that I have taken steps to ensure that neither dog is found at large again.

My offer to the Council on a without prejudice basis is that I go ahead with the desexing of Badger and will provide evidence to you that he has in fact been desexed, on the proviso that your report to the Council is to uphold my objection on the classifications of Molly and Badger as menacing.

Please confirm in writing whether the Council accepts this offer.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Allison McArthur', written in a cursive style.

Allison McArthur

131 Tutaenui Road
RD2
Marton 4788

14 July 2015

Rangitikei District Council
Private Bag 1102
Marton 4741
By Email info@rangitikei.govt.nz

To whom it may concern

OBJECTION TO CLASSIFICATION OF DOG AS A MENACING DOG

I would like to lodge the following objection to my two dogs "Badger" (Red Male Border Terrier, aged 6.06 years) and "Molly" (Red Female Border Terrier, aged 3.09 years) being classified as Menacing Dogs.

Firstly I would like to sincerely apologise for the trouble and inconvenience this has caused any persons involved. These dogs have never been in trouble before and it was a complete shock to me that they had, in fact managed to escape from our property. Unfortunately I was away at the time and my partner was home looking after them.

Molly and Badger were at home on the morning of Saturday 11 July 2015, contained in a fully fenced area around our swimming pool. This is an area that they are often contained in. Unfortunately, on that particular morning they have forced apart the bottom of the gate and squeezed through the gap to escape from the enclosed area. After searching on our property for them, my partner contacted Animal Control to report them missing. I understand the Animal Control Officer later found them on a neighbouring property.

The dogs have never escaped from the contained area before and as a result we have now secured the bottom of that gate so that they have no way of now being able to force the gate apart and squeeze through the gap. I am very confident that they will not be able to get out of this area again, and would welcome a property visit to satisfy Council that this has been done.

Molly and Badger are both very successful show dogs and are registered with the New Zealand Kennel Club. We have always held a Good Owners Classification and the dogs are always registered on time. Molly and Badger have been well socialised with both people and other dogs as well as our own animals ie cats, sheep, cattle, chickens and horses. We have never had any issues with them showing any signs of aggression or want/desire to harm any animals or people and they have never previously been in any form of trouble with Animal Control.

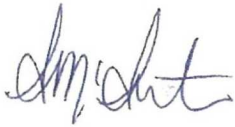
I have attached a letter of reference for them both, from Rosemary Weaver, a New Zealand Kennel Club Judge who has had a lot to do with them and can vouch for their temperaments and behaviour.

The classification as we understand it requires the dogs to be muzzled and desexed. I do not see this as being a solution to stop them from escaping, however we do feel very confident that the changes we have made to the gate and fencing will ensure that this situation never occurs again and the dogs will remain contained on our property, as they have done so for the last 4-6 years with no issues.

I would really appreciate the Council reviewing this objection favourably and overturning the classification of menacing dogs for Molly and Badger.

Again I would like to apologise for this incident and I look forward to your response at your earliest convenience.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Allison McArthur', written in a cursive style.

Allison McArthur

Attachment 3

REPORT

SUBJECT: **Objection to Classification of Dogs ("Badger" and "Molly") as menacing**

TO: Hearing Panel

FROM: Matt Blythe, Senior Animal Control Officer

DATE: 18 August 2015

FILE: 2-RE-1-7

1 Executive summary

- 1.1 Section 33A of the Dog Control Act 1996 allows any territorial authority to classify a dog as menacing if the dog is considered to pose a threat to a person or other animal due to the dog's behaviour.
- 1.2 "Badger" and "Molly" are two small border terriers aged 6 and 3 years respectively. The dogs are owned by Daniel Emeny and Allison McArthur. On 11 July 2015 "Badger" and "Molly" were observed worrying sheep at 161 Tutaenui Road, Marton.
- 1.3 As a result of this incident "Badger" and "Molly" were classified as menacing.
- 1.4 In accordance with section 33B of the Dog Control Act 1996, the owners objected to the classification and asked for it to be withdrawn.
- 1.5 The behaviour of "Badger" and "Molly" coupled with the lack of action by the owners to ensure these dogs do not venture into neighbouring farmland poses an ongoing threat to stock. It is therefore recommended that the classification of these dogs as menacing is upheld.

2 The incident

- 2.1 On 11 July 2015, at about 11:22am, Russell Nelson, was at his home address of 161 Tutaenui Road, Marton. On looking to his neighbour's property, he noticed two small dogs chasing sheep in the paddock. He saw that the two dogs were small terriers. He was aware that the dogs did not belong at that property.
- 2.2 He went to the paddock and after a while managed to catch the dogs. The dogs showed no aggression towards him. He then secured the dogs in a shed at his property and contacted Council's Animal Control team.
- 2.3 In due course, Animal Control Officer (ACO) Lesley Butler arrived and Mr Nelson took her to the shed where the dogs were waiting. ACO Butler subsequently impounded

and uplifted both dogs and left the property. Mr Nelson's evidence is attached as [Appendix 1](#).

- 2.4 On leaving the address, ACO Butler had a phone conversation with one of the owners of the dogs (Mr Emeny) as he had made a request for service with regards to lost dogs, and as a result of that conversation met him on Lower High Street Marton. On meeting the owner, he supplied ACO Butler with medication for one of the dogs. The circumstances of the dogs' impounding were not discussed. ACO Butler's statement is in [Appendix 2](#).
- 2.5 ACO Lou Fairest-Harper uplifted these two dogs and transported them to the Wanganui District Council pound. She recognised these dogs as being the same dogs from 131 Tutaenui Road, Marton recorded in the previous incident (below section 3).
- 2.6 On Monday 13 July 2015, she was working dayshift in the Rangitikei area. On that day she spoke with the male owner of the two dogs, Mr Emeny. She advised him that as there were a number of instances relating to the dogs worrying sheep, and that they would be classified as menacing. She explained the classification to him, including his right to object. He advised her that he intended to object as the dogs were show dogs and that they needed to be kept entire. She then prepared the notice of classification and subsequently served that on him later that day. ACO Fairest-Harper's statement is in [Appendix 3](#) (1st part).
- 2.7 This notice of classification is provided at item 4 in the Order Paper.

3 Previous incident

- 3.1 Animal Control staff are aware of an earlier occasion when "Badger" and "Molly" were seen worrying sheep in Tutaenui Road, Marton.
- 3.2 On 18 March 2015 Vicki Rine of 27 Tutaenui Road observed the dogs worrying sheep on her property; she attempted to catch the dogs but failed. However, she continued to follow the dogs after they left her property and eventually, with the assistance of Matt Roberts a neighbour at 41 Tutaenui Road, the dogs were caught. While Ms Rine was awaiting the arrival of Animal Control staff, she was approached by the owner Mr Emeny and she handed him the two dogs. Statements from Ms Rine and Mr Roberts regarding this incident are attached at [Appendix 4](#) and [Appendix 5](#).
- 3.3 ACO Lou Fairest-Harper responded to this incident and visited the owners at their home and issued a verbal warning. Her statement is attached as [Appendix 3](#) (2nd part).

4 Statutory requirements for classification of dogs as menacing

- 4.1 The Dog Control Act 1996 has specific provisions relating to offending of the nature of this incident. Territorial Authorities are required to act in terms of these provisions and in accordance with the policy adopted under that Act. The Council's Dog Control and Owner Responsibility Policy is attached as [Appendix 6](#).

4.2 The relevant provision is:

33A Territorial authority may classify dog as menacing

(1) This section applies to a dog that—

- (a) has not been classified as a dangerous dog under section 31; but
- (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—
 - (i) any observed or reported behaviour of the dog; or
 - (ii) any characteristics typically associated with the dog's breed or type.

(2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.

(3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—

- (a) the classification; and
- (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
- (c) the right to object to the classification under section 33E; and
- (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority

4.3 An Animal Control Officer classified these dogs as menacing pursuant to section 33A(1)(b)(i). This is in accord with Council's Delegations Register, which provides that each Animal Control Officer is appointed a Dog Control Officer in terms of section 11 of the Dog Control Act 1996 and is also given discretionary statutory authority under that Act –

- to classify a dog as menacing pursuant to Sections 33A, 33C and 33ED;
- to require a menacing dog to be neutered pursuant to Section 33EB;
- to provide information pursuant to Sections 35 and 35A; and
- to sell, destroy or otherwise dispose of an impounded dog pursuant to Section 69.

4.4 Section 7.4.10 of the Council's Dog Control and Owner Responsibility Policy requires neutering for all dogs classified as menacing, to be done within one month of the classification with proof by a veterinary certificate provided to Council.

4.5 Council has thus decided not to give effect to the discretion permitted under section 30(3)(ea): this provides that a territorial authority must state whether dogs classified by the territorial authority as menacing dogs under section 33A or 33C are required to be neutered under section 33E(1)(b) and, (i) if so, whether the requirement applies to all such dogs; and (ii) if not, the matters taken into account by it in requiring any particular dog to be neutered. This requirement by Council for neutering of all dogs classified as menacing could be varied only by an amendment to the Control of Dogs Policy, and that must be done using the special consultative procedure in section 83 of the Local Government Act 2002.

5 Considering the objection

5.1 The statutory requirements on objections are as follows:

33B Objection to classification of dog under section 33A

- (1) If a dog is classified under section 33A as a menacing dog, the owner—
 - (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
 - (b) has the right to be heard in support of the objection.
- (2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
 - (a) the evidence which formed the basis for the classification; and
 - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
 - (c) the matters relied on in support of the objection; and
 - (d) any other relevant matters.
- (3) The territorial authority must, as soon as practicable, give written notice to the owner of—
 - (a) its determination of the objection; and
 - (b) the reasons for its determination

5.2 The written objection from Ms McArthur is included in item 6 (attachment N) in the Order Paper. It was received within the time prescribed in section 33B(1).

5.3 At its meeting on 30 July 2015, Council appointed His Worship the Mayor, Councillor Belsham, Councillor Harris, Councillor McNeil and Councillor Rainey to comprise a hearing panel to hear the objection. The date, time and place for the hearing was advertised on 13 August 2015 in the Wanganui Chronicle and the District Monitor.

5.4 To assist the Hearing Panel, the following comments are made in respect of the considerations specified in sections 33B(2)(a), (b), (c) and (d).

(a) The evidence which formed the basis for the classification

5.5 There are three members of the public who have provided evidence to the Panel of the events that occurred on 11 July 2015 and the earlier incident on 18 March 2015. They have all stated that they saw the two dogs worrying sheep on a number of occasions.

5.6 It is not uncommon for dogs to hunt 'as a pack': the two dogs Badger and Molly are most certainly dogs from the same pack; their behaviour on a number of occasions is a fair and reasonable indication that they were 'hunting'.

5.7 It has been documented that there is a pattern of behaviour showing that these two dogs have formed a habit of worrying sheep, that the owners are aware, and that the behaviour has continued.

(b) Any steps taken by the owner to prevent any threat to the safety of persons or animals

5.8 As stated in the evidence given by ACO Fairest-Harper and Ms Vicki Rine, both the owners of these dogs were aware of the behaviour of the dogs on 18 March 2015.

Despite this knowledge, the behaviour has been allowed to continue. It can therefore be reasonably assumed that very little, if anything, has been done by the owners to ensure that this behaviour will not recur.

- 5.9 It should also be noted that the same reason was given by the owners on both occasions, this being that the dogs were let out and then somehow escaped. Council Animal Control staff consider there is a high risk of the threat continuing, knowing that the behaviour has already occurred on at least two occasions.

(c) The matters relied on in support of the objection

- 5.10 Ms McArthur's only comments to Council at this stage have been to suggest a solution to the problem is that they have made changes to the gate and fences at the property, and that they are confident the dogs will not get out again.
- 5.11 I have doubts surrounding this assurance, especially when taking into consideration comments made in the same letter that the dogs had never escaped previously, nor had they ever previously been 'in trouble' with Animal Control. It can clearly be documented that both dogs had previously escaped from the same section, and both had previously come to the attention of Animal Control staff.
- 5.12 Ms McArthur has supplied a 'character reference' for the dogs from Rosemary Weaver, who refers to herself as a New Zealand Kennel Club judge and committee member. Her reference alludes to the dogs' lack of aggression towards people and other dogs. Council staff are not suggesting any aggression towards anything other than sheep, and have witnesses for two separate occasions relating to this particular behaviour.

(d) Any other relevant matters

- 5.13 Neutering can be performed without the need to remove the dog's external reproductive organs or, when they are removed, to replace them with artificial implants to create the impression the dog is entire.
- 5.14 There are many benefits in having dogs neutered or spayed. In particular, it is found to reduce a dog's desire to roam, reduces aggression and ensures the behavioural traits are not passed on to offspring.
- 5.15 On 30 July 2015, Ms McArthur had a conversation with Senior Animal Control Officer Matt Blythe, and conveyed her understanding of that conversation by letter dated 31 July 2015 (included in Item 6 attachment M in the Order Paper). This letter contained several inaccuracies or misunderstandings, which were pointed out in Mr Blythe's letter of 5 August 2015 (attached as Appendix 7)
- 5.16 My comment about "Molly" not being required to be de-sexed was made in the context if, as suggested by Ms McArthur, "Molly" was with litter: in that circumstance, the de-sexing could most likely only be performed safely after the litter was born.

- 5.17 In regards to muzzling requirements for both dogs, the context around the conversation related to reactive rather than proactive enforcement of the condition by Animal Control Officers: the onus rests with the owner (not Animal Control staff) to ensure the dogs are muzzled in a public place at all times.

6 Witnesses

- 6.1 There are five witnesses who have provided evidence with regards to these dogs worrying sheep on the two occasions. Three intend to be present at the hearing.

6.2 11 July 2015

Russell Nelson: sworn statement, not available for hearing. (Refer Appendix 1)

Lesley Butler: statement, attending hearing. (Refer Appendix 2)

Lou Fairest-Harper: statement, attending hearing (Refer to Appendix 3)

6.3 18 March 2015

Vicki Rine: statement, attending hearing. (Refer to Appendix 4)

Matt Roberts: sworn statement, not available for hearing. (Refer Appendix 5)

Lou Fairest-Harper: statement, attending hearing. (Refer Appendix 6)

7 Conclusion

- 7.1 Rangitikei District Council Animal Control staff have a duty to enforce the provisions of the Dog Control Act 1996 and, in doing so, must take into consideration any risk to the safety of any person or animal within the District.
- 7.2 After careful consideration, and on reviewing evidence available, Animal Control staff classified the dogs known as “Badger” and “Molly” as menacing dogs pursuant to the provisions of section 33A of the Dog Control Act 1996.
- 7.3 In this instance, it is known that both dogs have on at least two occasions been seen to be worrying sheep and lambs in the Tutaenui Road area. On the first recorded occasion, the owners both gave an undertaking that this was an isolated incident, and that it would not recur. Despite this undertaking, a similar incident occurred within four months. This can be proven through the statements of the witnesses.
- 7.4 With two similar incidents and the uncertainty whether the owners can remedy their dogs behaviour, Animal Control staff hold an honest belief that, if not classified as menacing, and therefore being subject to the associated restrictions and conditions, these dogs will continue to act in this undesirable manner and, accordingly, pose a threat to sheep and lambs on neighbouring farmland in the future.

8 Recommendation

- 8.1 That the Hearing Panel appointed to hear the objection from Allison McArthur to the classification of dogs "Badger" and "Molly" uphold the classification of both dogs as menacing.

P.P. 

Matt Blythe
Senior Animal Control Officer

Appendix 1

Brief of Evidence

Russell Nelson to prove:

That is my name; I live on Tutaenui road, Marton.

On the 11th of July 2015 at about 11:22am, we were at home.

I looked out to the paddocks on my neighbour's property and could see two small dogs chasing sheep.

I could see that the dogs were stressing the sheep and that they continued to worry them.

We went out to the paddock and saw that the dogs were small terriers. We managed to catch both dogs and I secured them in a shed. The dogs were quite friendly to us and not aggressive.

I then called the Council to have an animal control officer attend.

I due course an animal control officer arrived and I took her to the shed where the dogs were.

She subsequently impounded the dogs and took them with her.

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in hearing proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signature:



Date:

14/8/15

Appendix 2

Brief of Evidence

Lesley Ruth Butler to prove:

That is my full name, I am an Animal Control Officer, warranted in the Rangitikei District Council area.

On the Saturday the 11th of July 2015 I was working on-call in the Rangitikei area.

At about 11:22am, and as a result of information received, I travelled to an address of 161 Tutaenui road, Marton.

On arrival there I spoke with the previous witness, Russell Nelson.

Russell took me to a shed where he had secured two Border terriers that he had captured in the act of worrying his sheep.

I subsequently impounded these two dogs.

Shortly afterwards I was advised by the afterhours call-centre that two dogs matching the description of the two dogs I had impounded had been reported as missing.

A short time later, and after having left the address at Tutaenui road, I met the owner of the two dogs on Lower high street, Marton. He confirmed that the two dogs I had were his.

He supplied me with medication for one of the dogs.

We did not discuss the circumstances of the impounding of his dogs as I had been called to another urgent and unrelated job, and also as the owner didn't seem interested in talking about why I had impounded the dogs.

On arrival at the second, and urgent job, I handed the two dogs over to another Animal Control Officer, Lou Fairest-Harper, who took the dogs to the Council pound.

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in hearing proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signature:

Date::

Appendix 3

Brief of Evidence

Lorraine Marsha Fairest-Harper to prove:

That is my full name, I am an Animal Control Officer, warranted in the Rangitikei District Council area.

On the 18th day of March 2015 I was working and on call in the Rangitikei area.

At about 6:32pm, and as a result of information received, I travelled to an address on Tutaenui road, Marton.

On arrival, at about 6:55pm I spoke with the previous witness, Vicki Rine.

Whilst speaking with Vicki Rine, I observed that her sheep were all bunched in the paddock and were panting. In my experience it was obvious to me that the sheep were stressed from having been worried as described by Vicki.

As a result of information given to me by Vicki Rine, I went to the address of 131 Tutaenui road, Marton.

Initially on arrival there I spoke to the male at the address, and after a short while the female came out of the house.

I now identify the male and female as the people in this hearing today, and the owners of the dogs.

I.D. OWNERS:

The female told me that the dogs had just been let off when they had taken off, and that it had happened very quickly.

I advised both the male and the female that the dogs had been disturbed worrying sheep, and that if it were to happen again that the consequences could be extreme, and could possibly mean that they could be shot by a farmer.

Both the male and the female were aware that the dogs had been worrying sheep.

The owners advised me that both dogs had been imported in from Australia and that they were show dogs.

Both dogs were shown to me, and were identified as Molly and Badger by the owners.

I then warned both owners in relation to worrying sheep, and shortly after that I left the address.

About six weeks after that incident, I was working dayshift in the Rangitikei area.

As a result of information received that two dogs had been worrying sheep, I again went to the address of 131 Tutaenui road, as the description and location of the two dogs indicated to me that they were the same two dogs..

On arrival there, I could not locate the dogs, and there was no one at home.

I left my business card in the front door of the address in a position that was readily noticeable. This was left so that the owners would contact me, this is a regular practice, and most responsible owners are very quick to call.

The owners did not get back to me at any stage.

On Saturday the 11th of July, I was not rostered on to work, but was called in due to an unrelated incident.

Whilst at that incident, I uplifted two dogs that had been impounded by the on-call Animal Control Officer, Lesley Butler.

Lesley had impounded the two dogs as they had been worrying sheep at an address on Tutaenui road, Marton.

I recognised these dogs as being the same dogs from 131 Tutaenui road, Marton.

I transported these dogs to the Wanganui District Council pound.

On Monday the 13th of July 2015, I was working dayshift in the Rangitikei area.

On that day I spoke with the male owner of the two dogs, Daniel Emeny.

I advised him that as there were a number of instances relating to the dogs worrying sheep, that they would be classified as menacing.

I explained the classification to him, including his right to object.

I explained to him that the dogs would be classified as a result of the event on the 11th of July, but also as a result of the event on the 18th of March.

He advised me that he understood my position, and he indicated that he knew exactly why this was being done.

He then advised me that he would be objecting to the classification as the dogs were show dogs and that they had to remain entire to be able to be showed.

I then obtained a prepared notice of classification and subsequently served that on him.

PROD EXH:

I now seek leave of the committee to produce a copy of the classification documentation as an exhibit.

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in hearing proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signature:

Date::

Appendix 4

Brief of Evidence

Vicki Ann Rine to prove:

I live on Tutaenui road, Marton.

On the Wednesday the 18th of March 2015 at about 6:00pm, I was at my home address and was inside my house.

I was in the kitchen, and as I looked outside, I could see my lambs running around the paddock that they were in. I could see that they were running towards a corner, and I wasn't sure what was going on.

I went outside to see why they had all bunched in the corner by the gate.

When I got there I spotted two small dogs, they were both a browny tan colour and were kind of a wirey coated terrier.

They were both in the paddock, and while I was there they both continued to chase the lambs in the paddock.

I tried to catch them but couldn't get near them.

About that time, my son arrived home, and I was also on the phone to get the dog ranger.

I got my son to try and stay with the dogs and to keep them away from the sheep.

Soon after that, the dogs jumped through my fence and went down my driveway.

As they went, we followed them down the drive and into the neighbours property.

The dogs worked their way through three paddocks of sheep, chasing the sheep as they went.

We managed to catch up with them while they were in the third paddock, and were still chasing sheep.

The sheep in this paddock were visibly stirred up.

The dogs then jumped into a trough, I presume as they were tired.

Another neighbour came down, together we managed to catch the dogs.

We took the dogs out onto Tutaenui road to wait for the dog ranger to arrive.

Soon after we got to the street, the owner of the dogs turned up, he was in his work ute, he works for Downs.

He said something along the lines of, "Oh , you've found them"

I told him that they had been chasing sheep, and that the dog ranger was on the way and that she would want to speak to him.

I asked him where he lived and he told me.

He then took his dogs and left.

Soon after that, the dog ranger arrived and I spoke with her.

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in hearing proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signature:

Date::

Appendix 5

Brief of Evidence

Matt George Chilton Roberts to prove:

That is my full name, I live on Tutaenui road, Marton.

I am a greyhound trainer, and have worked around dogs all my life.

On the 18th of March 2015, I lived at 41 Tutaenui road, Marton.

In the early evening of that day, I was at home.

I looked out to the paddocks at the rear of my property and could see two people walking through the paddocks, I was immediately concerned as to why they were there.

I approached the people and found that they were a mother and her son, and that they were following two dogs that had been worrying sheep.

I then saw the two dogs. They were little terrier type dogs.

The dogs were worrying the sheep that were in the paddock.

I caught the two dogs and gave them to the lady, I remember that the dogs were wet.

She then went to the road, she told me that she was taking them, and was going to wait for the dog ranger to come.

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in hearing proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signature:

Date::

Appendix 6



Rangitikei District Council

Policy Title	Dog Control and Owner Responsibility Policy
Date of Adoption by Council	27 November 2014
Resolution Number	14/RDC/247
Date by which review must be completed	27 November 2019
Statutory reference for adoption	Dog Control Act 1996
Statutory reference for review	Dog Control Act 1996 Section 10 and 10AA Local Government Act 2002 Section 83
Included in the LTP	No

DOG CONTROL AND OWNER RESPONSIBILITY POLICY

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ABSTRACT

- ❖ Section 10 of the Dog Control Act statutorily mandates Council to develop and adopt a policy on dogs in accordance with the special consultative procedure set out in Section 83 of the Local Government Act 2002.
- ❖ Council must give effect to the enforcement of this policy by developing and adopting under Section 20 of the Act the necessary Control of Dogs Bylaw.
- ❖ Council wishes to encourage dog ownership with the accompanying positive effects such ownership brings, however, Council recognises that this must be balanced by ensuring measures are in place to minimise and mitigate problems that dogs can cause.

1. INTRODUCTION

- 1.1 Under the Dog Control Act 1996 Council is responsible for both administering the Dog Control Act 1996 within its territorial district and developing a dog control bylaw. This policy forms the basis of the Rangitikei District Council Dog Control Bylaw 2014 which is made pursuant to Section 20 of the Act and sets out a framework on how Council proposes to implement the various measures prescribed by the Act as being the responsibility of Council, meet community outcomes and Council's performance measures for dog control as set out in its 10 Year Long Term Plan.
- 1.2 Council acknowledges that the majority of dog owners within the Rangitikei district are responsible dog owners and that most interactions between dogs and people are positive. However, there will always be instances when a dog becomes a nuisance or danger to the community. A core feature of this policy is ensuring a balance is maintained between public safety and meeting the recreational needs of dogs and their owners.
- 1.3 In developing this policy Council has had regard to the urban / rural character of the Rangitikei district and has sought to encourage and reward responsible dog ownership recognising the value of well-behaved dogs whilst ensuring adequate measures are in place to minimise or mitigate the nuisance to the community that dogs can cause.

2. DEFINITIONS

"Act" means the Dog Control Act 1996 and any amendments to it.

"At Large" means at liberty, free, not restrained.

"Bylaw" means the Dog Control Bylaw 2014.

"Confined" means enclosed securely in a building or vehicle or tied securely to an immovable fixture on a premise or within an enclosure from which the dog cannot escape.

"Dangerous Dog" means any dog that behaves aggressively or threatens the safety of any person, stock, poultry, domestic animal or protected wildlife as defined under Section 31 of the Act.

"Disability Assist Dog" has the same meaning as defined under the Act.

"Dog Control Officer" means a dog control officer appointed under Section 11 of the Act; and includes a warranted officer exercising powers under Section 17 of the Act.

"Dog Ranger" means a dog ranger appointed under Section 12 of the Act; and includes an honorary dog ranger.

“Domestic Animal” has the same meaning as defined under the Act

“Council” means Rangitikei District Council.

“Infringement Offence” has the meaning given to it under Section 65(1) of the Act.

“Menacing Dog” has the same meaning as defined under the Act and means any dog that Council considers may pose a threat to any person, stock, poultry, domestic animal or protected wildlife due to either observed or reported behaviour or dogs which are classified as menacing under Section 33A or 33C of the Act.

“Neutered Dog” has the same meaning as defined under the Act.

“Non-Working Dog” means all dogs that are not working dogs as defined in this Policy.

“Owner” has the same meaning as defined under the Act.

“Policy” means the Dog Control and Owner Responsibility Policy.

“Poultry” has the same meaning as defined under the Act.

“Probationary owner” means a dog owner who has received three or more infringement notices in a 24 month period or been convicted of any offence under the Act or any offence against Part 1 or Part 2 of the Animal Welfare Act 1999 in respect of a dog, or any offence against Section 26ZZP of the Conservation Act 1987, or Section 561 of the National Parks Act 1980.

“Protected Wildlife” has the same meaning as defined under the Act.

“Public Place” has the same meaning as defined under the Act.

“Under Control” means a dog that is under the direct control of a person either through the use of a leash, voice or hand commands (when in a leash free area) or which has its movements physically limited through the use of a leash and/or muzzle.

“Registration Year” has the same meaning as that given to the term “financial year” in Section 5(1) of the Local Government Act 2002.

“Roaming Dog” has the meaning given under Section 52 of the Act any is any dog unaccompanied by its owner found in a public place or on private land or premises other than that occupied by the owner.

“Rushing” has the same meaning as defined under Section 57 (1) of the Act and includes a dog in a public place which rushes at, or startles any person or animal in a manner that causes a person to be killed, injured or endangered; or any

property to be damaged or endangered; or which rushes any vehicle in a manner that causes or is likely to cause an accident.

“**Stock**” has the same meaning as defined under the Act.

“**Working Dog**” has the same meaning as defined under the Act.

3. LEGISLATIVE CONTEXT

3.1 Section 4 of the Act states that the purpose of the Act is

- “(a) to make better provision for the care and control of dogs –*
 - i. by requiring the registration of dogs; and*
 - ii. by making special provision in relation to dangerous dogs and menacing dogs; and*
 - iii. by imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person; and*
 - iv. by imposing on owners of dogs obligations designed to ensure that dogs do not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife; and*
- (b) to make provision in relation to damage caused by dogs.*

3.2 Dog owners are responsible for their dog and its behaviour. Section 5 of the Act sets out statutory obligations for every dog owner which they are required to comply with and include:

- “(a) Ensuring that the dog is registered in accordance with the Act and that all relevant territorial authorities are promptly notified of any change of address or ownership of the dog;*
- (b) Ensuring that the dog is kept under control at all times;*
- (c) Ensuring that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter;*
- (d) Ensuring that the dog receives adequate exercise;*
- (e) Taking all reasonable steps to ensure that the dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means;*
- (f) Taking all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person;*
- (g) Taking all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife;*

- (h) *Taking all reasonable steps to ensure that the dog does not damage or endanger any property belonging to any other person;*
- (i) *Complying with the requirements of the Act and of all regulations and bylaws made under the Act.*

Nothing in the Act limits the obligations of any owner of a dog to comply with the requirements of any other Act or of any regulations or bylaw regulating the control, keeping, and treatment of dogs.

4. POLICY CONSIDERATIONS

4.1 Dog control is a statutory regulatory function which Council is required under Section 6 of the Act to provide. Further, Council is required under Section 10 of the Act to adopt a dog control policy which must:

- a) Specify the nature and application of any bylaw made or to be made under Section 20;
- b) Identify any public place from which dogs are to be prohibited, either generally or at specified times, pursuant to a bylaw made under Section 20(1)(a);
- c) Identify any particular public place, and any areas or parts of the district in which dogs (other than working dogs) in public places are required by a bylaw made under Section 20(1)(b) to be kept on a leash;
- d) Identify those areas or parts of the district in respect of which no public place or area has been identified under paragraph (b) or (c) above; and
- e) Identify any space within areas or parts of the district that are to be designated as dog exercise areas permitting dogs to be exercised at large;
- f) State whether dogs classified by Council as menacing dogs under Section 33A or 33C are required to be neutered and if so, whether the requirement applies to all such dogs and if not, the matters Council has taken into account when determining that a particular dog must be neutered;
- g) State whether dogs classified by any other Council as menacing dogs under Section 33A or 33C are required to be neutered under Section 33EB(2) if the dog is currently registered with Council and, if so whether the requirement applies to all such dogs and if not, the matters Council will take into account when determining whether a particular dog must be neutered;
- h) Include such other details of the policy as Council thinks fit including, but not limited to, details of the policy in relation to:
 - i. Fees or proposed fees;
 - ii. Owner education programmes;
 - iii. Dog obedience courses;
 - iv. The classification of owners;
 - v. The disqualification of owners; and
 - vi. The issuing of infringement notices.

5. POLICY OBJECTIVES

- 5.1 Council seeks to promote a high standard of dog care and control so that people can enjoy the benefits of a dog ownership without adversely affecting other members of the public, and for people of all ages to feel safe in our communities during their interactions with dogs.
- 5.2 As required by Section 10(4) of the Act, this policy has been made having regard to the need to:
- a) Minimise danger, distress and nuisance to the community;
 - b) Avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and
 - c) Enable, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and
 - d) Provide for the exercise and recreational needs of dogs and their owners.

6. SHARED SERVICES AND COMMUNITY PARTNERSHIPS

- 6.1 Council Officers liaise on dog control issues (as appropriate) with key external community stakeholders such as the SPCA, veterinary surgeons, New Zealand Police, dog obedience clubs, kennel/dog breed clubs and adjoining councils.
- 6.2 Recent amendments to the Local Government Act 2002 require Council to fulfil its dog control obligations under the Act in an efficient and cost effective method. Council does this partly through contractual agreement with Manawatu District Council and Wanganui District Council.

7. NATURE AND APPLICATION OF POLICY

7.1 FEES AND CHARGES

Registration fees

- 7.1.1 Registration of dogs is a central principle of the Act, with all registered dogs listed in the national dog database. Councils are statutorily required to keep a register of all dogs registered in their district and dog owners must ensure that their dogs are registered with Council each year. Dog registration is an effective tool for Council to use to communicate with known dog owners, and creates a valuable record detailing the history of each dog and dog owner within the district.
- 7.1.2 Council's tiered fee structure reflects a partial "user pays" system in that the dog control activity is partially funded through Council rates as the service incorporates an element of public good associated with community safety outcomes. Despite payment of both registration and impounding fees Council does not fully recover the costs associated with this regulatory activity.

- 7.1.3 The dog registration fees are set by Council each year and reflect the respective levels of service required by each category of dog owner. Payable by 1 August each registration year, reduced registration fees are payable for neutered dogs, working dogs, and “good owners” providing an incentive for responsible dog ownership.
- 7.1.4 A key component of this policy is the control of dogs within the district particularly unwanted dogs and accordingly registration fees for dogs which have been neutered are set lower than dogs which have not been neutered.
- 7.1.5 All dogs over the age of three months are required to be registered. Accordingly, when a dog is first registered only the balance of the current years registration fee is payable.
- 7.1.6 Dog owners are required to advise Council promptly of any change of dog ownership or address.
- 7.1.7 Registration fees are set for all dogs over three months of age for each registration year. The registration fee shall be payable by 1 August in each registration year. A prompt payment discount of 33% is given when full payment is received by this date.
- 7.1.8 Pursuant to Section 32(1)(e) of the Act the registration fee of a dog classified as dangerous is 150% of the level that would apply if the dog were not so classified.

Impounding fees

- 7.1.9 Council has a statutory duty of care pursuant to Sections 67-72 of the Act for all dogs impounded, seized or committed to its custody. Each year Council pursuant to Section 68 of the Act sets fees relating to the impounding, seizing or committing dogs to its custody and the costs associated with this activity.

These fees are intended to capture the costs of Councils Officers time undertaking such activities, the daily sustenance costs for impounded dogs and also the costs associated with euthanising impounded dogs. As part of the tiered user pays fees structure for dog control activities but also as a sanctioning /deterrent element of this policy Council resolved to impose higher pound fees on the owner of any dog which has a second or subsequent impoundment within a single 12 month period.

- 7.1.10 Before any impounded dog can be released into the care of its owner or rehomed all impounding fees and charges must be paid in full and the dog (if not already) must be registered and micro chipped.

7.2 DOG CONTROL MATTERS

- 7.2.1 Dog owners must keep their dogs on a leash at all times when in a public place, (excluding those locations designated as dog exercise areas or where dogs are specifically prohibited). Dog owners are required to keep their dog under continuous and effective control when in a public place.

- 7.2.2 Any dog which is placed on an open tray of a vehicle must be kept restrained by a leash or chain of a length which is sufficiently short to ensure that the dog cannot fall from the vehicle or rush at passers-by. This provision will not apply if the dog is placed in a wire cage which can adequately contain it.
- 7.2.3 Bitches in season are not permitted to enter or remain upon a public place except a registered veterinary clinic and must be kept contained upon their owner's property in such a way so that they are inaccessible to roaming dogs.
- 7.2.4 Dogs suffering from an infectious disease, distemper or mange are not permitted to enter or remain upon a public place but must be kept contained within its owner's property or alternatively be confined at a registered veterinary clinic while the disease, distemper or mange is being medically treated.
- 7.2.5 Council provides signage to inform the community of areas where dogs are prohibited or required to be on a leash or where they may be exercised off the leash. Signage is also used to reinforce Councils requirement that dog owners remove their dog's faeces when on public places.
- 7.2.6 Any dog owner or person responsible for a dog when out on any public place or upon land not owned or occupied by that person, must carry a suitable container to collect and remove any dog faeces defecated by the dog under their control, and dispose of it in a sanitary manner. Dog faeces can contain bacterial disease or parasites which are potentially dangerous to public health particularly for children.
- 7.2.7 Any dog found roaming on any public place or private land not owned or occupied by its owner shall be in breach of Council's Dog Control Bylaw and may be impounded or destroyed.

7.3 DOG OWNERSHIP

Minimum Standard of Accommodation

- 7.3.1 Dog ownership carries with it responsibilities on the part of the owner to provide the dog with proper facilities, care and attention and exercise. Failure to do so can lead to unhealthy conditions for the dog and give rise to nuisance to neighbours through odours, vermin, pests and noise from the dog barking or howling.
- 7.3.2 Every owner, or person responsible for a dog must ensure that the area of the property that the dog has access to is fully fenced suitable for the purpose of confining the dog.
- 7.3.3 Every owner, in respect of every dog in the care of the owner, must provide accommodation, which meets the following minimum standards:
- a) A weatherproof kennel in which there is sufficient room for the dog to stand up and turn around;

- b) The kennel must be constructed on dry ground and be sheltered from the weather. It should be a solid structure with a roof and a floor, and allow the dog access to clean water at all times and be kept in a clean and sanitary condition.
- 7.3.4 The kennel must not be located nearer than one metre to any boundary of the property. Failure to comply with this is an offence under the Dog Control Bylaw and may result in an infringement notice being issued.
- 7.3.5 The dog owner must ensure that their dog is supplied with proper and sufficient food and water, is free from injury or infection or, is receiving proper care and attention for the injury or infection. Failure to comply with this is an offence under the Dog Control Bylaw and may result in an infringement notice or prosecution under the Act.
- 7.3.6 Each dog owner must ensure that their dog is not fed, nor has access to, any untreated sheep or goat meat.
- 7.3.7 Each dog owner must ensure that the dog receives adequate exercise.
- 7.3.8 Where a case of neglect or cruelty to a dog is found an appropriate agency will be informed and the dog may be seized immediately.

7.4 **DOG CLASSIFICATION**

Dangerous Dogs

- 7.4.1 Sections 31 – 33 of the Act set out the reasons how or why a dog may be classified as dangerous and the obligations and responsibilities such a classification imposes on the dog owner.
- 7.4.2 Pursuant to Section 31 of the Act Council must classify a dog as dangerous if:
 - a) the owner of the dog has been convicted of an offence in relation to the dog under section 57A(2)¹ of the Act; or
 - b) the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable

¹ **57A Dogs rushing at persons, animals, or vehicles**

(1) This section applies to a dog in a public place that—

(a) rushes at, or startles, any person or animal in a manner that causes—

(i) any person to be killed, injured, or endangered; or

(ii) any property to be damaged or endangered; or

(b) rushes at any vehicle in a manner that causes, or is likely to cause, an accident.

(2) If this section applies,—

(a) the owner of the dog commits an offence and is liable on conviction to a fine not exceeding \$3,000 in addition to any liability that he or she may incur for any damage caused by the dog; and

(b) the court may make an order for the destruction of the dog.

(3) A dog control officer or dog ranger who has reasonable grounds to believe that an offence has been committed under subsection (2)(a) may, at any time before a decision of the court under that subsection, seize or take custody of the dog and may enter any land or premises (except a dwellinghouse) to do so.

- grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife; or
 - c) the owner of the dog admits in writing that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.
- 7.4.3 When a dog is classified as dangerous Council must give the owner of the dog notice of its classification whereupon the owner has 14 days to object in writing to Council of its classification. The owner is entitled to be heard by Council in support of their objection to the classification.
- 7.4.4 The owner of a dog classified as dangerous must ensure that the dog is:
 - a) kept contained within a securely fenced area of their owners property which it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property;
 - b) kept confined within a vehicle or cage, or muzzled in such a manner to prevent the dog from biting but allowing it to breathe and drink without obstruction, or controlled on a leash (except when in a dog exercise area) when in a public place or private way; and
 - c) neutered or has been neutered within 1 month of receipt of the dangerous dog classification and produces to Council a veterinary certificate confirming this; or
 - d) there are reasons why the dog is not in a fit condition to be neutered before the date specified in the veterinary certificate. In such circumstances, the dog owner must produce to Council a certificate that the dog has been neutered within 1 month of the date specified in the veterinary certificate.
- 7.4.5 The owner of a dog which has been classified as dangerous is not permitted to transfer ownership of the dog without the prior written permission of Council. The obligations imposed by Section 32 of the Act and owning a dangerous dog transfer to any new owner.
- 7.4.6 The classification of a dangerous dog extends throughout all of New Zealand.

Menacing Dogs

- 7.4.7 Sections 33A – 33EC of the Act set out the reasons how or why a dog may be classified as menacing and the obligations and responsibilities such a classification imposes on the dog owner.
- 7.4.8 Pursuant to Section 33A of the Act Council may classify a dog as menacing if:
 - a) it has not been classified as a dangerous dog under Section 31; but Council considers may pose a threat to any person, stock, poultry, domestic animal or protected wildlife because of any observed or reported behaviour of the dog; or any characteristics typically associate4d with the dogs breed or type.

7.4.9 When a dog is classified as menacing pursuant to Section 33A(2) of the Act Council must give the owner of the dog notice of its classification whereupon the owner has 14 days to object in writing to Council of its classification. The owner is entitled to be heard by Council in support of their objection to the classification.

7.4.10 The owner of a dog classified as menacing must ensure that the dog is:

- a) not allowed to be at large or in any public place or in any private way, except when kept confined within a vehicle or cage, or muzzled in such a manner to prevent the dog from biting but allowing it to breathe and drink without obstruction, or controlled on a leash (except when in a dog exercise area) when in a public place or private way; and
- c) is neutered or has been neutered within 1 month of receipt of the menacing dog classification and produces to Council a veterinary certificate confirming this; or
- d) there are reasons why the dog is not in a fit condition to be neutered before the date specified in the veterinary certificate. In such circumstances, the dog owner must produce to Council a certificate that the dog has been neutered within 1 month of the date specified in the veterinary certificate.

7.4.11 All breeds listed in Schedule 4 of the Act, or types of dog belonging wholly or predominantly to 1 or more breeds or types listed in Schedule 4 of the Act will be classified as menacing and will be subject to muzzling and a ban on importation.

7.4.12 The classification of a menacing dog extends throughout all of New Zealand.

7.5 DOG OWNER CLASSIFICATION

Good Owner

7.5.1 Any person who is a responsible dog owner, and demonstrates to the satisfaction of the Council's dog control officer, that they are able to comply with the following requirements, will be entitled to a discounted registration fee. The requirements for 'Good Owner' classification are:

- a) The dog is provided with adequate accommodation. Kennels are sited on a hard surface and kept clean, and are able to provide the dog with shelter from the elements and be free from dampness. In the event that the dog does not have a kennel, the dog must be kept in a building.
- b) When the dog is not under the direct control of the owner it must be kept in a completely fenced off or contained area.
- c) At all times the dog is under the proper control at all times.
- d) The dog is not fed, nor has access to, any raw offal or untreated sheep or goat meat.
- e) The dog is registered.
- f) The owner will be in attendance when required for any inspection and shall provide the dog control officer with assistance as requested.

- g) The owner will promptly notify Council of any birth, death, sale or transfer of any dog they own.
 - h) The owner will comply with all requirements of the Act and Council's bylaw.
- 7.5.2 Failure to comply with any of the above conditions may result in the dog owner losing their good owner classification for a minimum of two complete registration years, effective immediately except in the case of late registration, in which case the dog owner will lose their good owner classification for a period of one registration year. The loss of a Good Owner classification will result in the dog owner being liable for the payment of the difference between their good owner classification fee and whichever other fee they would otherwise be liable for.

Probationary owner

- 7.5.3 Council may under Section 21 of the Act classify a dog owner as a probationary owner. Council must give the person notice of its decision to classify them as a probationary owner whereupon they shall have 14 days to object in writing to Council of their classification. The probationary owner is entitled to be heard by Council in support of their objection to the classification.
- 7.5.4 The effect of such a classification shall continue for a period of 24 months, unless Council or the Environmental and Regulatory Services Manager determine that a lesser period of time is appropriate.
- 7.5.5 The classification of a probationary owner extends throughout all of New Zealand.

Duties of a Probationary Owner

- 7.5.6 A probationary owner is not permitted to be the registered owner of a dog, unless they were the registered owner of the dog on the date of the classification. Within 14 days of receiving the probationary owner classification the probationary owner must dispose of any unregistered dog that they own.
- 7.5.7 Council may require the probationary owner to attend at the dog owners expense a dog owner education programme or dog obedience course (or both) which has been previously approved by Council or the Environmental and Regulatory Services Manager.
- 7.5.8 Every person commits an offence and is liable upon conviction to a fine not exceeding \$3,000 who without reasonable excuse fails to attend the dog owner education programme or dog obedience course (or both).

Disqualified Owner

- 7.5.9 Where section 25 of the Act applies Council must disqualify a person from being a dog owner unless Section 25(1A) applies. Owners can be disqualified from owning a dog for a period of up to five (5) years.

7.5.10 Council must give the person notice of its decision to disqualify them from being permitted to own a dog whereupon they shall have 14 days to object in writing to Council of this decision. The disqualified dog owner is entitled to be heard by Council in support of their objection to being disqualified.

7.5.11 The disqualification from being permitted to own a dog extends throughout all of New Zealand.

Duties of a Disqualified Owner

7.5.12 A disqualified person is not permitted to be the registered owner of any dog, and must within 14 days of receiving notice that they have been disqualified from owning any dog must dispose of all dogs that they own.

7.5.13 All of the disqualified person's dogs must be disposed of in a manner that does not constitute an offence under the Act or any other Act; and they must not be disposed of to any person who resides at the same address as the disqualified person.

7.5.14 Every disqualified person commits an offence and is liable upon conviction to a fine not exceeding \$3,000:

- a) If they fail to dispose of all of the dogs that they own within the specified time frame; or
- b) do not dispose of their dogs in a manner which doesn't constitute an offence under the Act or any other Act, or if they dispose of their dogs to any person who resides at the same address; or
- c) if at any time while they are disqualified to own a dog become the owner of a dog.

7.5.15 Every person commits an offence and is liable upon conviction to a fine not exceeding \$3,000 if they dispose of or give custody or possession of a dog to any person, knowing that that person is disqualified from owning a dog pursuant to Section 25 of the Act.

7.5.16 Where a disqualified person fails to dispose of any dog that they own within the specified 14 day timeframe then Council's dog control officers may seize any dog owned by the disqualified person.

7.6 PROHIBITED AREAS

7.6.1 All dogs (except working dogs whilst carrying out their function as a working dog) shall be prohibited at all times from the following areas:

- a) All public buildings;
- b) The playing surfaces of sports grounds and upto 20 metres of the playing surfaces where contained within the perimeter fence of the sports ground;
- c) Public swimming pools;
- d) All children's playgrounds in public places;

- e) Picnic areas;
- f) Wilson Road stock route, Hunterville.

7.6.2 All areas from which dogs are prohibited from entering shall have appropriate signs posted notifying the public that dogs are prohibited within that area.

7.6.3 Dogs which are kept on a leash by their owner or person in charge of the dog are permitted to move through the playing surface of sports grounds, children's playgrounds, picnic areas and the Wilson Road stock route travelling from one side to the other if there is no viable alternative route; however, the dog owner or person in charge of the dog is not permitted to stop with the dog whilst within any of these areas.

7.6.4 Council, may upon written request, allow dogs to enter public buildings for the purpose of a dog show or such other events as Council may at its discretion authorise. In considering such written requests, Council will consider the suitability of the building concerned for holding such an event, the duration of the event, and measures necessary to ensure public health and safety. The determination of this request will be made at the appropriate delegation level within Council.

7.6.5 Conservation Ban areas

No dogs (except working dogs carrying out their function as a working dog) are permitted in scenic reserves, conservation or forest parks and named conservation areas unless the dog owner has obtained a permit from the Department of Conservation.

7.7 LEASH CONTROL AREAS

The owner of a dog shall not allow the dog on any public place (not being a prohibited area or dog exercise and recreation area) unless the dog is controlled on a leash or is under the continuous control to the satisfaction of Council's dog control officer.

7.8 DOG EXERCISE AND RECREATION AREAS

7.8.1 Dog exercise areas are designated locations within the district where Council permits dogs to run at large off the leash. The dog owner must have the dog under their control at all times and a leash to be used if necessary. The areas listed below have been designated by Council as dog exercise areas:

Marton	The periphery of Wilson Park (excluding the children's playground)
Taihape	The north eastern Section of Taihape Domain.

Bulls	The northern Section of Bulls Domain.
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7.8.2 Other areas may be designated dog exercise areas by resolution of Council and these may include certain beach areas.

7.8.3 Subject to the practicality of undertaking the necessary work, some dog exercise areas may be fenced to provide a secure area for both dog owners and non-dog owners alike.

7.8.4 All dog exercise areas shall have appropriate signs posted prominently notifying the public that dogs are permitted to exercise within that area.

7.9 EDUCATION PROGRAMMES

7.9.1 While Council itself does not provide any owner education programmes or dog obedience courses it will continue to visit schools to familiarise children on issues of dog safety and caring for their dog.

7.9.2 Areas where dogs are prohibited or conversely where they may exercise will be publicised through this Policy and appropriate signage will be displayed on the street or at the park concerned or sports ground.

7.9.4 Additionally, an extensive website containing information for dog owners, adults and children on dog safety is maintained by the Department of Internal Affairs <http://www.dogsafety.govt.nz/>.

7.9.5 Owners whose dogs come to the attention of Council dog control officers through nuisance behaviour or, those owners who are classified as probationary, may be directed to approved courses or classes.

7.10 DOG CONTROL BYLAW

7.10.1 The main tool that Council will use to meet its statutory obligations and implement this policy in order to achieve its policy objectives is its Control of Dogs Bylaw 2014. This Bylaw will include inter alia:

- a) Prescribing minimum standards for the housing of dogs;
- b) Regulating and controlling dogs in Public Places;
- c) Designating specific areas as dog exercise areas;
- d) Requiring dogs, other than working dogs, to be controlled on a leash in specified public places, or in public places in specified areas of parts of the district;
- e) Requiring owners of dogs that defecate in public places (except as exempted by the Bylaw) to immediately remove faeces;
- f) Requiring bitches in season to be confined;

- g) Providing for the impounding of dogs, whether or not they are wearing a collar having the proper label or disc attached, that are found at large in breach of any bylaw made by Council under the Act.
- 7.10.2 As required by Section 10(6)(a) of the Act Council will review its Dog Control Bylaw within 60 days of adopting this Policy.

ENFORCEMENT

- 7.11.1 Council provides a 24 hour Animal Control Service and encourages people to report nuisance dog behaviour and dangerous or menacing dogs.
- 7.11.2 Council seeks to promote a high standard of dog care and control within the district and acknowledges that the majority of dog owners within the Rangitikei district are responsible dog owners. Council recognises that sometimes even a responsible dog owner may breach the policy, Bylaw or Act. On such occasions Council's Environmental and Regulatory Services Team Leader may use discretion and issue a written warning provided that the incident did not involve injury or distress to a person or animal, or a health issue e.g. the non-removal of dog faeces.
- 7.11.3 Dog owners who are in contravention of the Act (including any subsequent amendments) or a Council Bylaw will be liable to enforcement action. Such enforcement action may generally take the form of one or more of seven (7) mechanisms:
1. A verbal or written warning;
 2. The issuance of an infringement notice (an instant fine) for an Infringement Offence pursuant to Sections 65-66 of the Act as specified in Schedule 1 of the Act; or
 3. Filing Court papers for those statutory infringement offences under the Act which are enforced under Section 21 of the Summary Offences Act 1957;
 4. Seizing and impounding dogs;
 5. Classifying dogs as menacing or dangerous;
 6. Classifying dog owners as probationary or disqualifying people from being allowed to own a dog;
 7. Prosecuting dog owners.
- 7.11.4 Infringement notices shall be issued by Council's dog control officers and dog rangers for infringement offences as specified in Schedule 1 of the Act. With respect to any of those offences, Council gives delegated authority to the Senior Animal Control Officer who may in his absolute discretion decide to issue either a verbal or written warning or an Infringement Notice for any subsequent offending of that offence.
- 7.11.5 There will be instances whereby legal action is initiated for serious offences under the Act or Bylaw. A serious offence in this instance would include but not be limited to, situations where a dog:

- a) Creates a nuisance to any person;
- b) Causes distress to any person;
- c) Causes damage or injury to any person;
- d) Causes serious injury to any person;
- e) Causes damage to property;
- f) Causes damage or injury to any animal;

Where legal action has been initiated Council gives delegated authority to the Environmental and Regulatory Services Team Leader in his absolute discretion to determine if it is appropriate to proceed with legal action.

- 7.11.6 In addition to statutory offences contained within the Act, Council may impose further penalties for offences specific to Rangitikei district through its Dog Control Bylaw.

7.12 DOG POUND

- 7.12.1 Due to the costs associated with building, maintaining, securing and staffing an impounding facility for dogs, bitches or puppies Council does not have a permanent pound facility, rather Council uses the Wanganui District Council and Manawatu District Council pound facilities through a contractual agreement.
- 7.12.2 Whenever a dog is impounded Council officers shall make all reasonable efforts to contact the owner to advise them that their dog has been impounded and shall provide written notice to the owner advising that they have seven (7) calendar days to pay in full all fees payable or their dog may be sold, euthanised or otherwise disposed of. Where Council officers are able to identify and contact the owner of a dog which has been impounded, regardless of the outcome, Council will seek to recover from the Owner all fees and costs incurred as a consequence of the impounding with respect to the dog.
- 7.12.3 Before any dog can be released from the pound the following conditions must be satisfied:
- a) When a dog is claimed by its owner it must be registered, micro chipped (if it is not already), and all other fees and charges must be paid in full.
 - b) Council dog control officers must be satisfied that the prospective new owner of a dog being rehomed is a fit and proper person and that the property condition where they reside is suitable for a dog.
 - c) Any unregistered dog before being rehomed and prior to it being released from the pound to its new owner must be both registered and micro chipped at the new owner's expense and all fees and charges must be paid in full.
 - d) The release of any impounded dog from the pound shall be by a pre-arranged appointment.
- 7.12.4 Council will not rehome any dog which in the opinion of Council dog control officers is menacing, dangerous or has undesirable traits.

- 7.12.5 It is an offence under Section 72 of the Act to attempt to unlawfully release a dog from a council controlled pound or to be in possession of a dog that has been unlawfully released from such a pound.

7.13 NUISANCE

- 7.13.1 A person must not keep a dog on any land or premises if:
- a) The dog is causing a nuisance; or
 - b) The dog poses a significant health or safety risk to people.
- 7.13.2 Any person is in breach of this policy if they cause a dog on any land, premises or public place to become unmanageable; or if they incite a dog to fight with or attack any domestic animal, poultry, protected wildlife, stock or person.

Abatement of Nuisance

- 7.13.3 If in the opinion of a Council dog control officer or dog ranger a dog or dogs or the keeping of dogs on any property, has become or is likely to become a nuisance or injurious to health, the dog control officer or dog ranger may, by notice in writing, require the owner or occupier of the property, within a timeframe which is specified in the notice to take such reasonable action as the dog control officer or dog ranger deems necessary to minimise or remove the likelihood of nuisance or injury to health. Such action may include reducing the number of dogs living on the property; repairing or constructing a new kennel so that it meets Councils minimum standard of accommodation facility.

Barking Dogs

- 7.13.4 Where the dog control officer or dog ranger has received a complaint and has reasonable grounds for believing that a nuisance is being created pursuant to Section 55 of the Act by the persistent and loud barking or howling of a dog, the dog control officer or dog ranger may:
- a) Enter the property at any reasonable time (excluding the dwelling house), on which the dog is kept, to inspect the conditions under which the dog is being kept; and
 - b) Regardless of whether or not the dog control officer or dog ranger makes such an entry upon the property, may give the owner of the dog an abatement notice requiring them to make such provision on the property to abate the nuisance as specified in the abatement notice.
 - c) Where the Dog Control Officer or Dog Ranger considers it is necessary they may remove the dog from the property immediately.
- 7.13.5 Non-compliance with an abatement notice may result in Council taking enforcement action.

Roaming Dogs

- 7.13.6 Roaming dogs can cause annoyance and danger to the community, domestic animals, poultry, protected wildlife and stock.
- 7.13.7 In the first instance, when the owner of a roaming dog can be identified by dog control officers or dog rangers the dog control officers or dog rangers will have discretion to return the dog to the owner with a warning or alternatively to issue the owner with an Infringement Notice.
- 7.13.8 Excepting paragraph 7.13.7 above roaming dogs may be impounded by dog control officers or dog rangers and the dog owner will be required to pay all impound fees and other associated charges, daily sustenance before the dog will be allowed to be released from the pound to its owner.

7.14 POLICY REVIEW

- 7.14.1 Pursuant to Section 10 of the Act, this policy shall be reviewed or amended, using the special consultative procedure prescribed by Section 83 of the Local Government Act 2002, within ten (10) years from the date that the policy is adopted, or earlier if directed by Council or in response to changed legislative or statutory requirements.

7.15 REPEAL

Upon the commencement date of this policy all previous Rangitikei District Council Dog Control and Owner Responsibilities policies are hereby repealed.

7.16 COMMENCEMENT DATE

- 7.16.1 This policy was duly adopted by Council by a resolution passed on the 27th day of November 2014, following the use of the special consultative procedure as set out in Section 83 of the Local Government Act 2002.
- 7.16.2 The Rangitikei District Council Dog Control and Owner Responsibility Policy will commence on the 28th day of November 2014.

7.17 RELEVANT LEGISLATION

- Dog Control Act 1996.
- Dog Control Amendment Act 2003.
- Dog Control Amendment Act 2004.
- Dog Control Amendment Act 2006.
- Dog Control Amendment Act 2010.
- Dog Control (Perro de Presa Canario) Order 2010.
- Dog Control Amendment Act 2012.
- Impounding Act 1955.
- Animal Welfare Act 1999.

Appendix 7

5 August 2015

Allison McArthur

131 Tutaenui road

RD2

Marton

Dear Allison,

Thank-you for your letter dated 31 July 2015.

It is obvious from your letter that you have misunderstood several aspects of our conversation.

I refer to your letter;

(a) I accept that the gate has been fixed, this however in no way satisfies any concerns that your dogs may escape, I expressly stated in our conversation that there was always a possibility that this behavior could re-occur in the future as a result of your dogs escaping by any means which could be as a result of actions of another out of your control.

(b) I agree that your dogs are not a threat to any person, however they are a threat to other animals, in particular sheep. The menacing classification relates to their actions on two previous occasions.

(c) I accept that you are a responsible dog owner, however this does not negate the actions of your dogs on two previous occasions, and the likelihood of these actions re-occurring.

As stated in our discussion, Animal Control staff do not actively patrol to look for un-muzzled dogs, nor do they conduct any checks.

However, and as stated, should there be an incident involving your dogs and it is found that they were not muzzled, you would be solely responsible for those actions as the owner, and accordingly, liable.

In summary, it is not acceptable to this Council that in 'your opinion' your dogs are not a threat to any person or animal.

I do not accept your offer, and accordingly, this matter will now proceed to a hearing.

You will be notified in due course of the time, date and place of the hearing.

Matt Blythe

Senior Animal Control Officer

Rangitikei District Council